

In The Matter Of:

*Aaron Petitt, et al. v.
City of Cleveland*

*Aaron Petitt
January 17, 2019*

*Fincun-Mancini, Inc.
1801 E. Ninth Street
Suite 1720
Cleveland, Ohio 44114
(216) 696-2272*

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| | Page 1 | Page 3 |
| 1 | IN THE UNITED STATES DISTRICT COURT | 1 INDEX |
| 2 | FOR THE NORTHERN DISTRICT OF OHIO | 2 WITNESS: CROSS |
| 3 | EASTERN DIVISION | 3 Aaron Petitt |
| 4 | Aaron Petitt,) | 4 by Mr. Pike 4 |
| 5 | and) | 5 - - - |
| 6 | Cleveland Police) | 6 |
| 7 | Patrolmen's Association,) | 7 E X H I B I T S |
| 8 | Plaintiffs,) | 8 Defendant's: Marked |
| 9 | vs.) Case No. 1:18-CV-01678-JG | 9 A 20 |
| 10 | City of Cleveland,) | 10 B 26 |
| 11 | Defendant.) | 11 C 29 |
| 12 | - - - | 12 D 31 |
| 13 | Videotaped deposition of Aaron Petitt, a | 13 E 49 |
| 14 | plaintiff herein, called on behalf of the defendant | 14 F 84 |
| 15 | for oral examination, pursuant to the Federal Rules | 15 G 129 |
| 16 | of Civil Procedure, taken before Karen A. Toth, | 16 - - - |
| 17 | Notary Public in and for the State of Ohio, pursuant | 17 |
| 18 | to notice, at Burke Lakefront Airport, 1501 North | 18 |
| 19 | Marginal Road, Cleveland, Ohio 44114, on Thursday, | 19 |
| 20 | January 17, 2019, commencing at 9:54 a.m. | 20 |
| 21 | - - - | 21 |
| 22 | | 22 |
| 23 | | 23 |
| 24 | | 24 |
| 25 | | 25 |
| | Page 2 | Page 4 |
| 1 | APPEARANCES: | 1 PROCEEDINGS |
| 2 | On behalf of the Plaintiffs: | 2 VIDEO TECHNICIAN: We're on the record |
| 3 | Jared Klebanow, Esq. | 3 at 9:54. |
| 4 | Klebanow Law LLC | 4 AARON PETITT |
| 5 | 701 City Club Building | 5 of lawful age, being first duly sworn, as |
| 6 | 850 Euclid Avenue | 6 hereinafter certified, was examined and testified as |
| 7 | Cleveland, Ohio 44114 | 7 follows: |
| 8 | Avery Friedman, Esq. | 8 CROSS-EXAMINATION |
| 9 | Avery Friedman & Associates | 9 By Mr. Pike: |
| 10 | 701 City Club Building | 10 Q Sir, my name is Michael Pike. I'll probably |
| 11 | 850 Euclid Avenue | 11 be asking you all the questions today. Have |
| 12 | Cleveland, Ohio 44114 | 12 you ever had your depo taken before? |
| 13 | | 13 A Yes. |
| 14 | | 14 Q How long ago? |
| 15 | Also present: | 15 A Around two years. |
| 16 | Steve Mengelkamp, Video technician | 16 Q All right. So a couple of ground rules. We |
| 17 | - - - | 17 have to respond verbally to any questions that |
| 18 | | 18 are asked just like if you're testifying in |
| 19 | | 19 court. Try not to cut each other off. I'll |
| 20 | | 20 give you the courtesy of letting you finish |
| 21 | | 21 your answer completely before I go into my |
| 22 | | 22 next question and just try to let me finish my |
| 23 | | 23 entire question before I -- before you answer. |
| 24 | | 24 It helps Karen with putting together a clean |
| 25 | | 25 record and we won't talk over each other, |

| | Page 5 | Page 7 |
|------|---|---|
| 1 | okay? | 1 Q Do you recall the year or give me your best estimate? |
| 2 A | Okay. | 2 A 2011. |
| 3 Q | Can you state your name for the record? | 4 Q Okay. And then what did you leave the |
| 4 A | Aaron Petitt. | 5 A Division of Police to do? |
| 5 Q | Okay. And, Mr. Petitt, where are you currently employed? | 6 A To work as a security contractor for the U.S. Department of State. |
| 6 | | 7 |
| 7 A | The City of Cleveland. | 8 Q Did you work for the Department of State or |
| 8 Q | Okay. And then can you tell me, let's say starting with high school, your background | 9 did you work for a contractor who had a |
| 9 | including any college or education that you | 10 contract with the -- |
| 10 | have attended? | 11 A Both. |
| 11 | | 12 Q Okay. So you worked for the Department of State in what capacity? |
| 12 A | I went to Fairview High School. | 13 A |
| 13 Q | Uh-huh. | 14 A A security contractor. |
| 14 A | Before graduating at the age of 17 I enlisted in the U.S. military. My senior year I went to basic training. I came back and I completed my senior year of high school. Directly following high school I joined the U.S. Army and was active duty, First Ranger Battalion, 75th Ranger Regiment where I served four tours in both Iraq and Afghanistan. | 15 Q What did you do? |
| 15 | | 16 A I provided close personal security and high threat protection to mid and high level dignitaries. |
| 16 | | 17 |
| 17 | | 18 |
| 18 | | 19 Q And where was that -- where was that |
| 19 | | 20 employment? |
| 20 | | 21 A Iraq. |
| 21 | | 22 Q Okay. And then you said you worked for a contractor as well? |
| 22 | | 23 |
| 23 | | 24 A Correct. |
| 24 | | 25 Q That's separate from the Department of State |
| | Page 6 | Page 8 |
| 1 | places including Tri-C, Cleveland State and then online. And I graduated through | 1 work? |
| 2 | | 2 A It was contracted to the State Department. |
| 3 | University of Phoenix with a Bachelor's of | 3 Q All right. So who paid you? |
| 4 | Criminal Justice. | 4 A Triple Canopy. |
| 5 Q | Okay. Just to give me an idea, when did you graduate from high school year-wise? | 5 Q All right. So that was your employer? |
| 6 | | 6 A Correct. |
| 7 A | 2003. | 7 Q And how long did that employment for Triple Canopy last? |
| 8 Q | Okay. And then you served four tours you said in the U.S. Army? | 8 |
| 9 | | 9 A Approximately a year and a half. |
| 10 A | Yes. | 10 Q So we're talking about 2013 you're coming back |
| 11 Q | When did you get out of there? | 11 to Cleveland Division of Police? |
| 12 A | October 14, '06. | 12 A I'm not sure exactly on the dates. |
| 13 Q | And around 2007 you joined the Cleveland | 13 Q Okay. Absent -- I mean, putting aside what |
| 14 | Division of Police? | 14 you did for Triple Canopy, did you have any |
| 15 A | Yes. | 15 other for-pay employment up until you returned |
| 16 Q | And what was your initial rank at that point? | 16 to Cleveland Division of Police around 2012 or |
| 17 | What was your rank? | 17 '13? |
| 18 A | I'm sorry. | 18 A No. |
| 19 Q | Patrol officer? | 19 Q All right. How much did you get paid by |
| 20 A | Yes. | 20 Triple Canopy? |
| 21 Q | You currently are still a patrol officer? | 21 A \$500 daily. |
| 22 A | Yes. | 22 Q Okay. And how long was that deployment? |
| 23 Q | 2007 moving forward, at some point you left the Cleveland Division of Police, correct? | 23 A Generally 90 days on and 30 days off. |
| 24 | | 24 Q Why were you -- why did you cease working for |
| 25 A | Correct. | 25 Triple Canopy? |

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| | Page 9 | Page 11 |
| <p>1 A Initially I received an injury while I was 2 overseas, and then the contracts through the 3 defense agencies were cut. 4 Q So Triple Canopy had lost the contract? 5 A I'm not exactly sure how it happened with the 6 contracts. 7 Q Okay. Did you apply to any other government 8 or contractors after you stopped working for 9 Triple Canopy? 10 A In regards to what time frame? I'm sorry. 11 Q Let's start after -- right after you stopped 12 working for Triple Canopy. 13 A No. 14 Q Okay. So your next -- I'm assuming when you 15 returned to the Cleveland Division of Police 16 you had to reapply? 17 A I had to submit a letter of intent to return. 18 Q Did you retire when you left -- 19 A No. 20 Q -- the first time? What, did you take a leave 21 of absence? 22 A I resigned. 23 Q Okay. When you came back to Cleveland 24 Division of Police in about 2012, 2013 after 25 your work with Triple Canopy you were a patrol</p> | <p>1 jobs besides -- well, at any time after you 2 returned from Triple Canopy? 3 A Yes. 4 Q Who? 5 A SOC, Aegis. That's all. 6 Q Okay. What were those positions? 7 A Protective security detail. 8 Q Okay. Were those two separate application 9 processes? 10 A Yes. 11 Q The same type of work for both? 12 A Yes. 13 Q And when did you apply to SOC? 14 A Approximately seven months ago. 15 Q And then how about with respect to Aegis; when 16 did you apply? 17 A About the same time frame. 18 Q So that's summer of 2018 give or take? 19 A Yes. 20 Q How long have you received -- is that -- 21 strike that. 22 Is that a written application process? 23 How did you apply to SOC? 24 A Online. 25 Q What does SOC stand for, if you know? Is that</p> | |
| | Page 10 | Page 12 |
| <p>1 officer again? 2 A Yes. 3 Q What district? 4 A Third District. 5 Q What district are you currently in? 6 A Third District. 7 Q Did you stay in there since -- you stayed in 8 the Third District since 2013 area? 9 A No. 10 Q Okay. Walk me through where your career has 11 progressed through the Cleveland Division of 12 Police since 2013. 13 A I don't recall the exact dates but after the 14 large East Cleveland incident there was an 15 issue with manpower in the Second District. I 16 was sent to the Second District for 90 days 17 where I then returned to the Third District 18 for the remainder of the time. 19 Q So there has only been a 90 day period where 20 you were out at the Second District? 21 A Correct. 22 Q Otherwise you've been in the Third? 23 A Yes. 24 Q Okay. Since we're on employment, have you 25 applied for any other government contractor</p> | <p>1 just -- 2 A That's just the name of it. SOC is the name. 3 I don't know. 4 Q And do you have a copy of the application? 5 A No. 6 Q That was submitted online. You didn't print 7 out a copy or have a copy with you? 8 A No. 9 Q Are those positions still open or are they 10 still recruiting for those positions? 11 A I'm not sure. 12 Q Did you receive a follow-up letter or response 13 in any way with respect to that application 14 for SOC? 15 A No. 16 Q You didn't hear anything? 17 A No. 18 Q Do you know, to your knowledge, whether or not 19 that position is still open? 20 A I don't know. 21 Q Do you have any knowledge as to why you didn't 22 receive any type of follow-up employment with 23 SOC? 24 A No. 25 Q You have no information with regard to that,</p> | |

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| | Page 13 | Page 15 |
| 1 | do you? | 1 A I immediately received an automated email |
| 2 A | No. | 2 stating they received the application. |
| 3 Q | Okay. Do you know what the pay rate was | 3 Q Okay. |
| 4 | suppose -- was going to be for this position? | 4 A Sometime after that that I can't recall I |
| 5 A | 500 a day. | 5 received the email advising me that I'd be |
| 6 Q | How about with respect to Aegis; did you make | 6 receiving a telephone interview. |
| 7 | the same type of application online? | 7 Q Okay. What period of time are we talking, a |
| 8 A | Yes. | 8 week or two? |
| 9 Q | Do you have a copy of that application? | 9 A I believe it was a few months. |
| 10 A | No. | 10 Q Could you be any more specific? |
| 11 Q | Do you know if that position is still open? | 11 A No. |
| 12 A | I don't know. | 12 Q Is that an email you received? |
| 13 Q | Did you receive any follow-up information or | 13 A Yes. |
| 14 | contact regarding that application? | 14 Q Do you still have the email? |
| 15 A | No. | 15 A I'm not sure. |
| 16 Q | So do you know any reason why you didn't | 16 Q So you -- did you have to call or talk -- did |
| 17 | receive anything since the time -- from Aegis | 17 that email give you instructions as to how to |
| 18 | since the time you applied? | 18 proceed with respect to the phone interview? |
| 19 A | I don't know. | 19 A Yes. |
| 20 Q | Did you have any conversations with anyone | 20 Q Who did you have to call or -- talk to or |
| 21 | regarding your application for SOC or Aegis? | 21 call, if you recall? |
| 22 A | No. | 22 A I don't recall. |
| 23 Q | Same type of pay structure? | 23 Q Do you know who you spoke to at the |
| 24 A | Yes. | 24 Metroparks? |
| 25 Q | Have you made any other applications to any | 25 A No. |
| | Page 14 | Page 16 |
| 1 | other -- for any other employment outside the | 1 Q Do you recall the substance of the |
| 2 | Cleveland Division of Police? | 2 conversation you had? |
| 3 A | Yes. | 3 A Yes. |
| 4 Q | To whom or what entities? | 4 Q How long was the conversation? |
| 5 A | Metroparks. | 5 A Approximately ten minutes. |
| 6 Q | What is that application for? | 6 Q Okay. What did you guys -- what was discussed |
| 7 A | Patrol officer/park ranger. | 7 on the phone call? |
| 8 Q | Okay. When did you make that ap? | 8 A My background and my goals for the department. |
| 9 A | Approximately seven or eight months ago. | 9 Q Okay. |
| 10 Q | So around the same time you made these other | 10 A My goals in joining the department. |
| 11 | applications? | 11 Q Did you receive an offer from Metroparks? |
| 12 A | Yes. | 12 A No. |
| 13 Q | Did you hear back from the Metroparks? | 13 Q Do you know why? |
| 14 A | Yes. | 14 MR. KLEBANOW: Objection. You can |
| 15 Q | What did they say? | 15 answer. |
| 16 A | I was granted a phone interview. | 16 MR. PIKE: What's the objection? |
| 17 Q | Okay. Do you have a copy of your application | 17 MR. KLEBANOW: Form. Go ahead and |
| 18 | that you submitted to the Metroparks? | 18 answer. |
| 19 A | I don't believe so. | 19 Q Did anybody express to you the reason why you |
| 20 Q | Was that online or a written ap? | 20 didn't receive that position? |
| 21 A | It was online. | 21 A No. |
| 22 Q | With respect to the phone interview, when did | 22 Q So you have no idea why you didn't receive the |
| 23 | that occur? | 23 position? |
| 24 A | November 2018. | 24 A No. |
| 25 Q | When did you first hear back from Metroparks? | 25 Q You don't have any facts or evidence to |

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| <p>1 indicate why you didn't receive that position?</p> <p>2 A No.</p> <p>3 Q Okay. Did you receive any type of letter</p> <p>4 after your phone interview?</p> <p>5 A No.</p> <p>6 Q Did they tell you you didn't receive the</p> <p>7 position or is it just --</p> <p>8 A No.</p> <p>9 Q Never contacted you again?</p> <p>10 A No.</p> <p>11 Q Bad question. Double negative. Did anyone</p> <p>12 ever contact you again after the phone</p> <p>13 interview?</p> <p>14 A No.</p> <p>15 Q Did you contact them?</p> <p>16 A No.</p> <p>17 Q Okay. Since that application have you made</p> <p>18 application anywhere else for employment?</p> <p>19 A Yes.</p> <p>20 Q Where is that?</p> <p>21 A Stark Enterprise.</p> <p>22 Q What is Stark Enterprise?</p> <p>23 A It's a realtor organization in downtown</p> <p>24 Cleveland.</p> <p>25 Q Realty?</p> | <p>Page 17</p> <p>1 A Owens Corning.</p> <p>2 Q Okay. When did you make that application?</p> <p>3 A Along the same time frame.</p> <p>4 Q Online I'm assuming?</p> <p>5 A Yes.</p> <p>6 Q What was that? What position were you</p> <p>7 applying for?</p> <p>8 A International threat and security advisor.</p> <p>9 Q Did you receive a follow-up interview with</p> <p>10 respect to that application?</p> <p>11 A No.</p> <p>12 Q Do you know -- have any reason to know why?</p> <p>13 A No.</p> <p>14 Q Did you have any conversation or receive any</p> <p>15 written correspondence from anyone at Owens</p> <p>16 Corning regarding this position?</p> <p>17 A I received an email saying that I was not</p> <p>18 selected.</p> <p>19 Q Okay. When did you receive that?</p> <p>20 A I'm not sure on the date.</p> <p>21 Q Do you still have the email?</p> <p>22 A I believe so.</p> <p>23 Q Besides that email indicating that you weren't</p> <p>24 selected to either an interview or the</p> <p>25 position did you have any other contact with</p> |
| <p>Page 18</p> <p>1 A Yes.</p> <p>2 Q Okay. What position were you applying for?</p> <p>3 A Director of security.</p> <p>4 Q When did you make that application?</p> <p>5 A Approximately seven to eight months ago.</p> <p>6 Q Did you make that application online or --</p> <p>7 A Online.</p> <p>8 Q Okay. Do you have a copy of your application?</p> <p>9 A No, I don't.</p> <p>10 Q Stark Enterprises, are they located in</p> <p>11 Cleveland?</p> <p>12 A Yes.</p> <p>13 Q Do you know their address offhand?</p> <p>14 A No.</p> <p>15 Q Did you receive any follow-up interview or</p> <p>16 contact from Stark Enterprises after you</p> <p>17 submitted your application?</p> <p>18 A No.</p> <p>19 Q Do you know -- have any reason to know why?</p> <p>20 A No.</p> <p>21 Q Did you ever have any conversation with anyone</p> <p>22 associated with Stark Enterprises?</p> <p>23 A No.</p> <p>24 Q Okay. Besides Stark Enterprises did you make</p> <p>25 any other application for employment?</p> | <p>Page 20</p> <p>1 A Owens Corning regarding that position?</p> <p>2 A No.</p> <p>3 Q What's your -- did you apply anywhere else?</p> <p>4 A No.</p> <p>5 Q Okay. So I have Owens Corning, Stark</p> <p>6 Enterprises, the Metroparks job, SOC and Aegis</p> <p>7 for applications since about seven, eight</p> <p>8 months ago?</p> <p>9 A Correct.</p> <p>10 Q Are there any other applications for positions</p> <p>11 that we haven't discussed?</p> <p>12 A Not that I recall.</p> <p>13 Q Okay. I didn't tell you at the beginning. If</p> <p>14 you need to take a break or get water, just</p> <p>15 let me know, we'll take a break. It's not a</p> <p>16 marathon.</p> <p>17 A Okay.</p> <p>18 (Defendant's <u>Exhibit A</u></p> <p>19 marked for identification.)</p> <p>20 Q All right. I'm going to show you what's been</p> <p>21 marked as <u>Exhibit A</u>. Do you recognize this</p> <p>22 document?</p> <p>23 A Yes.</p> <p>24 Q What is it?</p> <p>25 A It's the complaint filed -- filed by my</p> |

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| | Page 21 | Page 23 |
| 1 | attorneys and CPPA. | 1 Q Okay. And in your circumstance who |
| 2 Q | Okay. I want to run through some of the | 2 recommended you for the medal? |
| 3 | things that you've alleged in this complaint. | 3 A I don't recall. |
| 4 | I ask you -- I just want to ask you a few | 4 Q Do you know what it was for? |
| 5 | things about Paragraph 9 on Page 3. Talks | 5 A I don't recall. |
| 6 | about your four tours of duty. How long is a | 6 Q With respect to the National Defense Service |
| 7 | tour of duty? | 7 Medal, what is that for, if you recall? |
| 8 A | It ranges. | 8 A The National Defense Service Medal is issued |
| 9 Q | Ranges from what to what? | 9 for wartime service. |
| 10 A | From three weeks to two years. | 10 Q Okay. All members of the armed -- of the Army |
| 11 Q | Okay. So the four tours of duty that you did, | 11 who perform wartime service receive the medal? |
| 12 | how long did each one of those last, if you | 12 A I'm not sure. |
| 13 | recall? | 13 Q Okay. How about the Afghanistan Campaign |
| 14 A | Between three and six months. | 14 Medal, is that similar with respect to the |
| 15 Q | How about the first tour, how long? | 15 National Defense Service Medal; is it awarded |
| 16 A | Approximately three to four months. | 16 for people that serve in that campaign? |
| 17 Q | Okay. How about the second? | 17 A Yes. |
| 18 A | Approximately four months. | 18 Q How about the Global War on Terrorism |
| 19 Q | Third? | 19 Expeditionary Medal, do you know what that's |
| 20 A | I believe it was seven months. | 20 awarded for? |
| 21 Q | And then the fourth? | 21 A It's awarded to expeditionary services. |
| 22 A | Four. | 22 Q What is an expeditionary service? |
| 23 Q | Those were all consecutive with no breaks? | 23 A I don't have the exact definition. |
| 24 A | No. | 24 Q Okay. Is that another medal that's -- for |
| 25 Q | So you came back and then you had -- you | 25 lack of a better term, it's awarded for |
| | Page 22 | Page 24 |
| 1 | stayed here and then re-enlisted? How does | 1 participation in a particular campaign? |
| 2 | that work between the tours? | 2 A No. |
| 3 A | I was still active military in between the | 3 Q Okay. Can you tell me what -- anything more |
| 4 | tours. | 4 specifically about it? |
| 5 Q | So you got redeployed? | 5 A No. |
| 6 A | Correct. | 6 Q Okay. How about the United States Army |
| 7 Q | Okay. So you did your first tour -- between | 7 Service Ribbon, do you know what that's |
| 8 | your first and second tour of duty were you | 8 awarded for? |
| 9 | furloughed back here in the states? | 9 A I think that one is just awarded for joining |
| 10 A | No. | 10 the Army. |
| 11 Q | Okay. What happened? You just stayed there? | 11 Q Okay. And then the U.S. Army Ranger Tab, |
| 12 A | On active duty military the units we were in, | 12 that's for becoming a part of the U.S. Army |
| 13 | being in a special operations unit we were | 13 Rangers I'm assuming? |
| 14 | only overseas for three to four months at a | 14 A No. |
| 15 | time. We would then return back home and | 15 Q Okay. What is that for? |
| 16 | continue to train for the next operational | 16 A It's for completing the U.S. Army Ranger |
| 17 | deployment. | 17 school. |
| 18 Q | Okay. Looking at Page 3 of your complaint, in | 18 Q Okay. Can you complete the school and not |
| 19 | Paragraph 9 some -- they're referred to here | 19 become an Army Ranger? |
| 20 | as decorations regarding the United States | 20 A Yes. |
| 21 | Army. I just want to run through them. With | 21 Q And then the Parachutist Badge, what is that |
| 22 | respect to the United States Army Achievement | 22 for? |
| 23 | Medal, can you tell me what that is? | 23 A For jumping out of planes. |
| 24 A | It's a medal that's awarded to someone who was | 24 Q Okay. All right. Scrolling through Page 5, |
| 25 | recognized for something that they did. | 25 there is an allegation in Paragraph 28 that |

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| | Page 25 | Page 27 |
| 1 Q | you talk about that you had served as a Cleveland Division of Police officer for roughly ten years and you had an excellent professional record. What I want to ask you is with regards to your professional career as a Cleveland Division of Police officer have you received any disciplinary infractions or charges in your career? | 1 Q Let me know when you've had a chance to take a look at that. |
| 2 A | Yes. | 2 A Okay. |

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| 3 Q | Can you tell me what those were and when they occurred? | 3 Q Do you recognize that document? |
| 4 A | I don't recall the exact date. | 4 A Yes. |
| 5 Q | Okay. So can you tell me what charges you've been brought up on during your career, if you recall? | 5 Q What is it that I handed you as <u>Exhibit B</u> ? |
| 6 A | I was charged with failure to obey a direct order. | 6 Q This is the charge packet that I received. |
| 7 Q | Insubordination; is that what it's called? | 7 A This is with respect to the charges that you |
| 8 A | I believe it was insubordination. I'm not sure. | 8 Q were -- sorry. The specifications you were charged with back in April of 2018? |
| 9 Q | Okay. Can you tell me when that occurred? | 9 A Correct. |
| 10 A | I don't recall the exact date. | 10 Q You received this letter, I'm assuming? |
| 11 Q | Okay. And my understanding is you were found guilty of that? | 11 A Yes. |
| 12 A | Yes. | 12 Q Did you receive it before you had a predisciplinary hearing? |
| 13 Q | | 13 A Yes. |
| 14 A | | 14 Q Okay. And does it outline all the specifications and charges that you were charged with as a result of both this incident |
| 15 Q | | 15 A that occurred in April of 2017 as well as an incident that occurred in October of 2017? |
| 16 A | | 16 Q Yes. |
| 17 Q | | 17 Q It has -- there is actually several charges in here; are there not? |
| 18 A | | 18 A Yes. |
| 19 Q | | 19 A |
| 20 A | | 20 Q |
| 21 Q | | 21 A |
| 22 A | | 22 Q |
| 23 Q | | 23 A |
| 24 A | | 24 Q |
| 25 A | | 25 A |

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| | Page 26 | Page 28 |
| 1 Q | And were you suspended or receive any discipline with regard to that? | 1 Q With regard to the second page of that document, it has three specifications, correct? |

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| 2 A | Yes. | 2 A Okay. |
| 3 Q | What was it, if you recall? | 3 Q And those were the three specifications you were charged with, correct? |
| 4 A | Ten days. | 4 A Yes. |
| 5 Q | Is that the first time that you were brought up on disciplinary charges, to your recollection? | 5 Q The first specification relates to your lawsuit that we're here about today where it's alleged that you used disparaging remarks when referencing an Arabic male during a potential police action, correct? |
| 6 A | I don't recall. | 6 Q Specification 2 charges you with failing to use de-escalation techniques and contact and cover when approaching a male as part of a traffic stop, correct? |
| 7 Q | What's the next time, if you recall, when you were brought up on disciplinary charges? | 7 A Correct. |
| 8 A | I believe it was this. | 8 Q Specification 3 charges you with failing to follow police rules and regulations regarding covering your exposed tattoos, correct? |
| 9 Q | In 2018 is the next time that you believe you were brought up on disciplinary charges? | 9 Q Okay. And then Specification 3 charges you with failing to follow police rules and regulations regarding covering your exposed tattoos, correct? |
| 10 A | I believe. | 10 Q Okay. And you were found guilty of all three of those charges? |
| 11 Q | Okay. Tell me a little bit about your recollection of what occurred in 2018. | 11 A |
| 12 A | Well, I was charged with -- I don't know the exact terms or exactly what the charge paper said for the incident that we're here for. I don't want to speculate. | 12 Q |
| 13 Q | MR. PIKE: Can you mark that B? | 13 Q |
| 14 A | (Defendant's <u>Exhibit B</u> | 14 Q |
| 15 Q | marked for identification.) | 15 Q |
| 16 A | | 16 Q |
| 17 Q | | 17 Q |
| 18 A | | 18 Q |
| 19 Q | | 19 Q |
| 20 A | | 20 Q |
| 21 Q | | 21 Q |
| 22 A | | 22 Q |
| 23 Q | | 23 Q |
| 24 A | | 24 Q |
| 25 Q | | 25 Q |

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| | Page 29 | Page 31 |
| 1 | MR. KLEBANOW: Objection. You can | 1 unit? |
| 2 | answer. | 2 THE NOTARY: Hold on. |
| 3 A | Yes. | 3 MR. PIKE: Oh, sorry. |
| 4 | MR. PIKE: Let's mark that. | 4 (Defendant's <u>Exhibit D</u> |
| 5 | (Defendant's <u>Exhibit C</u> | 5 marked for identification.) |
| 6 | marked for identification.) | 6 Q I'm going to show you what's been marked as |
| 7 Q | Let me know when you've had a chance to take a | 7 <u>Exhibit D</u> , if you want to take a look at that. |
| 8 | look at what we've had marked as <u>Exhibit C</u> . | 8 A Okay. |
| 9 A | Okay. | 9 Q All right. Can you tell me what that is? |
| 10 Q | Okay. Can you tell me what <u>Exhibit C</u> is? | 10 A This is a transcript of the hearing. |
| 11 A | It is the reiteration of the specifications | 11 Q That's your predisiplinary hearing? |
| 12 | and the findings by Chief Williams. | 12 A Correct. |
| 13 Q | Okay. And he found the findings with respect | 13 Q All right. So when you received <u>Exhibit B</u> is |
| 14 | to what is contained in this letter, you were | 14 it fair to say that you were put on notice of |
| 15 | found guilty of all three specifications, | 15 the charges against you? |
| 16 | correct? | 16 MR. KLEBANOW: Objection. You can |
| 17 A | Yes, he did. | 17 answer. |
| 18 Q | With regard to <u>Exhibit B</u> , Specification 1, are | 18 A Yes. |
| 19 | you aware of what group or severity level that | 19 Q Did you receive notice of the charges before |
| 20 | specification is? | 20 you received this letter, <u>Exhibit B</u> ? |
| 21 A | No. | 21 A I'm sorry. Give me just a moment. |
| 22 Q | Are you aware it's a Group II offense? | 22 Q Sure. |
| 23 A | No. | 23 A Could you repeat the question? |
| 24 Q | Do you have any reason to dispute that? | 24 Q Sure. |
| 25 | MR. KLEBANOW: Objection. You can | 25 MR. PIKE: Go ahead and read the |
| | Page 30 | Page 32 |
| 1 | answer. | 1 question back. |
| 2 A | I'm not sure. I don't know. | 2 (Question read.) |
| 3 Q | Okay. How about with regard to Specification | 3 A I'm still not sure what you're asking. |
| 4 | 2, do you know what group level defense -- or | 4 Q Sure. Were you put on notice of the charges |
| 5 | what group level specification that is? | 5 that you were brought up on with respect to |
| 6 A | No. | 6 what's contained in <u>Exhibit B</u> before you |
| 7 Q | Would you have any reason to dispute that it's | 7 received <u>Exhibit B</u> ? |
| 8 | a Group II offense? | 8 MR. KLEBANOW: Objection. You can |
| 9 | MR. KLEBANOW: Objection. You can | 9 answer. |
| 10 | answer. | 10 Do you understand the question? |
| 11 A | I don't know. | 11 A I guess I don't really understand. I'm sorry. |
| 12 Q | How about with respect to Specification 3, do | 12 Q Sure. Is <u>Exhibit B</u> the first time you |
| 13 | you know what group level offense that is? | 13 received notice of the charges that were |
| 14 A | No. | 14 lodged against you by the City of Cleveland |
| 15 Q | Okay. All right. Between the time that you | 15 that are contained within <u>Exhibit B</u> ? |
| 16 | received <u>Exhibit B</u> and the time that you | 16 MR. KLEBANOW: Objection. You can |
| 17 | received <u>Exhibit C</u> it's my understanding you | 17 answer. |
| 18 | had a predisiplinary hearing, correct? | 18 A Yes. |
| 19 A | Correct. | 19 MR. PIKE: What is the |
| 20 Q | And what was the purpose of that | 20 objection? |
| 21 | predisiplinary hearing? | 21 MR. KLEBANOW: Form. Speaking |
| 22 | MR. KLEBANOW: Objection. You can | 22 objections. Go ahead and ask your question. |
| 23 | answer. | 23 I can object to a question. We're not here to |
| 24 A | I'm not sure. | 24 argue -- |
| 25 Q | Aren't you a member of a collective bargaining | 25 MR. PIKE: Well, if I can -- if |

| | | |
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| | Page 33 | Page 35 |
| 1 I can correct the form of the question I'm 2 entitled to do so at this time. 3 MR. KLEBANOW: I can object. We're 4 not here -- it's not speaking objections 5 during a deposition. 6 MR. PIKE: I'm entitled to the 7 basis of the objection here. 8 MR. KLEBANOW: Go ahead. I don't 9 have to sit here and justify my objections. 10 You can sit here and ask the questions. 11 Q Okay. Were you charged with anything other 12 than what was contained in <u>Exhibit B</u> ? 13 A No. 14 Q Okay. Was any information or evidence lodged 15 against you at the predisciplinary hearing 16 that was conducted with respect to <u>Exhibit D</u> 17 as the transcript of, was anything else 18 provided against you other than -- any other 19 charges brought against you other than what's 20 in <u>Exhibit B</u> ? 21 A No. 22 Q Okay. And at that hearing were you given an 23 opportunity to provide your side of the story? 24 A Yes. 25 Q And you were given an opportunity to respond | 1 if I go use the restroom? 2 Q Please do. 3 VIDEO TECHNICIAN: We're off the record 4 at 10:31. 5 (Short recess.) 6 VIDEO TECHNICIAN: We're back on the 7 record at 10:37. 8 By Mr. Pike: 9 Q Okay. Sir, back to -- back to some of the 10 allegations of the complaint. I asked you 11 about discipline. You told me about a 2013 12 approximate case involving insubordination. 13 In 2014 were you brought up on charges for 14 engaging in unauthorized secondary employment 15 as well? 16 A I don't recall. 17 Q Okay. Do you defer to records that are within 18 the purview of the Cleveland Division of 19 Police? 20 A Yes. 21 Q Are you saying that it didn't happen or you 22 just have no recollection one way or another? 23 A I'm saying I don't have any recollection. 24 Q Okay. How about in 2009 approximately, were 25 you charged with the improper use of a taser? | |
| 1 to all the charges against you, correct? 2 A Yes. 3 Q And through your counsel you chose not to 4 provide any additional information, correct? 5 A Correct. 6 Q And nowhere in that transcript did you dispute 7 or contest any of the charges with respect to 8 Specification 2 or Specification 3, did you? 9 A No. 10 Q Okay. And with respect to Specification 1, 11 it's my understanding that you replied upon 12 your Garrity statement? 13 MR. KLEBANOW: Objection. Go ahead 14 and answer. 15 A Correct. 16 Q Do you have a recollection of the testimony 17 you gave in your Garrity statement interview? 18 A Yes. 19 Q Okay. Can you tell me -- well, do you 20 remember word for word what you said? 21 A No. 22 Q Going back to some of the allegations in the 23 complaint which we marked as <u>Exhibit A</u> . Give 24 me a second. I want to find -- 25 A While you're doing that would it be all right | Page 34 | Page 36 |

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| | Page 37 | Page 39 |
| 1 | could. It's on Page 6. | 1 Q Sure. I'm just trying to get at exactly what |
| 2 A Okay. | 2 the term haji means as you understand it. | |
| 3 Q There is an allegation here that the City of | 3 A As I understood the term haji it was used to | |
| 4 Cleveland should have known that the word that | 4 describe groups of males overseas and/or | |
| 5 you used was not disparaging. What evidence | 5 describe the alpha male or the male in charge. | |
| 6 do you have to support that allegation? | 6 Q The alpha male, what is an alpha male? | |
| 7 MR. KLEBANOW: Objection. You can | 7 A The person in charge. | |
| 8 answer. | 8 Q Where does the term alpha male come from? Is | |
| 9 A Based on my experience and training stemming | 9 that something you were taught as well? | |
| 10 from my first round of basic training when I | 10 A It's something that they refer to themselves | |
| 11 was 17 the word haji was commonplace and used | 11 as, the leader of the group. | |
| 12 on an almost daily basis. Transferring to | 12 Q They refer to -- okay. That's something that | |
| 13 active duty the word haji was used again on an | 13 somebody told you overseas while you were | |
| 14 almost daily basis referring to a wide range | 14 deployed? | |
| 15 of subjects. | 15 A Yes. | |
| 16 Once I joined -- once I was allowed to | 16 Q All right. And your understanding as to what | |
| 17 join and passed the training and I was | 17 the term haji meant with respect to your | |
| 18 selected for First Ranger Battalion the | 18 deployment came from you're saying U.S. | |
| 19 training always included the word haji. | 19 military? | |
| 20 Overseas the details, which were daily | 20 A U.S. military members, local indigenous people | |
| 21 activities, daily training cycles and | 21 that we worked with. | |
| 22 assignments included everything ranging from | 22 Q Okay. | |
| 23 haji guard to haji detail to general haji | 23 A Workers on base. | |
| 24 training. There was haji patrol. Haji was | 24 Q So that's based on what somebody told you? | |
| 25 used on virtually every subject matter of | 25 A It was based on my conversations with the | |
| | Page 38 | Page 40 |
| 1 | every day overseas both between Iraq and | 1 local indigenous people and the members of the |
| 2 Afghanistan. | 2 military. | |
| 3 Q Okay. My understanding is it's a form of | 3 Q You understand that words can have different | |
| 4 military slang used to refer to middle eastern | 4 meanings in different locales, correct? | |
| 5 persons. | 5 MR. KLEBANOW: Objection. | |
| 6 MR. KLEBANOW: Objection. | 6 A I understand what I was taught and what I've | |
| 7 Q Is that your understanding? | 7 been trained. | |
| 8 A No. | 8 Q Okay. Since the time of your incident with | |
| 9 Q It has some other meaning, the term haji? | 9 regard to your text message in this case have | |
| 10 A Yes. | 10 you done any research or investigation into | |
| 11 Q What is that meaning as you understand it? | 11 the term haji? | |
| 12 A As I understood haji from my training and | 12 A Not really, no. | |
| 13 experience of actually being overseas was that | 13 Q You haven't looked online or looked it up or | |
| 14 it was used to describe not only a male who | 14 tried to find out what it means in other | |
| 15 has been to Mecca but the leader of any small | 15 respects? | |
| 16 tribal group. The alpha male in any of the | 16 A With respect to the Internet I know what I was | |
| 17 groups that would generally speak for the | 17 trained with and I don't need the Internet to | |
| 18 other males or for Muslim males as a group or | 18 tell me what I was trained and what I was | |
| 19 as a whole. | 19 taught. | |
| 20 Q So it's your understanding that the term haji | 20 Q I understand but that's not my question. My | |
| 21 refers to Muslim -- anybody of the Muslim | 21 question was did you go online or do any | |
| 22 faith who is male? | 22 research whatsoever to determine alternate | |
| 23 MR. KLEBANOW: Objection. You can | 23 meanings of the term haji? | |
| 24 answer if you understand the question. | 24 A Very little. | |
| 25 A Could you rephrase that please? | 25 Q Okay. What did that involve? | |

| | | |
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| | Page 41 | Page 43 |
| 1 A Talking to friends and Google. 2 Q Okay. What did you learn from Google or 3 talking to friends about an alternate meaning 4 of the term haji? 5 A That the phrasing I used and what I was taught 6 is accurate and truthful. 7 Q That's not what I -- exactly what I asked you. 8 I asked you about an alternate meaning with 9 respect to, not what -- the way that you 10 believe that you used it. 11 MR. KLEBANOW: Objection. You can 12 answer if you understand the question. 13 A I don't understand the question. 14 Q Did you learn that the term haji could be used 15 as an ethic slur? It's an alternate meaning 16 or alternate usage of the term? 17 A I don't believe that's the meaning of the 18 term. 19 Q Sir, that's not what I asked you. I asked you 20 whether or not you learned that, not what you 21 believe. 22 A It's possible. 23 Q You're aware that that term has different 24 meanings, correct? 25 A I'm aware of what I was taught and what I was | 1 that's an alternate meaning? 2 A Learned by whom? 3 Q By you. 4 A I learned myself? 5 Q Has anybody told you that? 6 A Outside of the City of Cleveland? 7 Q Yes. 8 A No. 9 Q And when you went on Google to do research of 10 the term haji it never -- nothing came up on 11 Google indicating that that term has a 12 derogatory meaning as well? 13 A I don't recall. 14 Q You don't recall doing that? 15 A Doing what? 16 Q You don't recall ever -- so it's your belief 17 that that term does not have an ambiguous 18 meaning and could be interpreted in multiple 19 ways? 20 A I believe that's up to interpretation. 21 Q Right, because it can have multiple meanings; 22 can it not? 23 A I don't know. 24 Q Okay. Well, your complaint alleges that it is 25 an ambiguous term with multiple meanings. | |
| | Page 42 | Page 44 |
| 1 trained. 2 Q Right. And you're also aware that the term 3 haji has a derogatory component and 4 understanding as to the meaning, correct? 5 MR. KLEBANOW: Objection. You can 6 answer. 7 A No. 8 Q So you've never been told or informed that the 9 term haji has a derogatory or demeaning 10 implication or meaning? 11 MR. KLEBANOW: Objection. You can 12 answer. 13 A Not according to the training and experience 14 that I've had. 15 Q Sir, I'm not asking you with respect to your 16 training and your belief, what I'm asking you 17 is whether or not you've been made aware that 18 the term haji has multiple meanings? 19 A Can you define the meanings? 20 Q Sure. That it can be used as a derogatory 21 term or a slur to refer to certain ethnic 22 persons or persons of the Muslim belief. 23 A That's not my interpretation of the meaning. 24 Q I'm not asking your interpretation. I'm 25 asking you whether or not you've learned that | 1 That's why I'm asking you. Do you believe 2 that it has -- it's an ambiguous term with 3 multiple meanings? 4 A I believe so. 5 Q Okay. And what are those multiple meanings? 6 A Well, I cover the bases of the person in 7 charge of indigenous people, a person who has 8 gone to Mecca, and general usage for terms 9 overseas. 10 Q Okay. So despite you filing a lawsuit in this 11 case you don't have any belief or -- strike 12 that. 13 You don't have any understanding of the 14 term haji when used in certain context could 15 be construed to some people as offensive? 16 A I don't believe it is an offensive term. 17 Q I'm not asking you -- sir, if you answer the 18 question I ask we'll get through this a lot 19 quicker. You're not answering the question 20 I'm asking. 21 A I'm doing my best. 22 Q You're saying what you believe. I'm not 23 asking you what you believe. I'm asking 24 whether or not you have knowledge as to 25 whether or not a term has multiple meanings. | |

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| | Page 45 | Page 47 |
| 1 We've gone around about this for about five 2 minutes? 3 A Of a term or what term? 4 Q The term haji, you're aware it has multiple 5 meanings, correct? 6 A Yes. 7 Q And you're aware that some of those meanings 8 are derogatory in nature, correct? 9 A It's possible. 10 Q Yeah. That that's a possible interpretation 11 of that word and meaning, correct? 12 MR. KLEBANOW: Objection. Go ahead. 13 A Yes. 14 Q You're not -- you're not contending that that 15 word has no derogatory implications under any 16 circumstances, do you? 17 A Can you rephrase that please? 18 Q Sure. I'll have the question read back. 19 (Question read.) 20 A I'm sorry. I don't understand that. 21 Q Sure. Are you claiming that the term haji 22 cannot be used in any manner which could be 23 considered derogatory? 24 MR. KLEBANOW: Objection. Go ahead. 25 A No. | 1 A No. 2 Q When did you get rid of that phone? 3 A Approximately a year ago. 4 Q After you had filed the lawsuit? 5 A I believe it was beforehand. 6 Q Where is the -- where is that phone? 7 A Somewhere with Verizon. 8 Q You traded it in? 9 A Yes. 10 Q Okay. Was this after you were brought up on 11 charges? 12 A I don't recall. 13 Q You don't know if it occurred before or after 14 you were brought up on charges for the use of 15 the term? 16 A No. 17 MR. KLEBANOW: Objection. Go ahead. 18 Q When you got rid of your phone containing the 19 text message are you aware of any 20 documentation of the words -- express words of 21 the text message conversation? 22 A I'm sorry, can you ask that again? 23 Q Sure. Are you aware of any documents or 24 information that contains the content of your 25 text message exchange that's the subject of | |
| | Page 46 | Page 48 |
| 1 Q You're not claiming that, right? 2 A No. 3 Q You're claiming in certain circumstances that 4 term can be -- can be used in a derogatory 5 manner, correct? 6 A I'm not claiming what someone else can do. 7 Q Sir, I'm just asking whether or not it can 8 occur and whether or not you're aware of that? 9 MR. KLEBANOW: Objection. Go ahead. 10 A Anything can occur. I don't know. 11 Q Right. It's all based on context, correct? 12 MR. KLEBANOW: Objection. Go ahead. 13 A I don't know. 14 Q The meaning of a word is based on context; is 15 it not? 16 MR. KLEBANOW: Objection. Go ahead. 17 A I don't know. 18 Q Okay. Now, with respect to the text message 19 exchange, do you have the text message 20 exchange that's the subject of this lawsuit 21 still presently in your possession? 22 A I don't believe so. 23 Q You deleted it? 24 A I have a new phone. 25 Q So do you still have the old phone? | 1 this lawsuit? 2 A I don't know. 3 Q Okay. Well, let's -- let's probe your memory. 4 And please tell me what your recollection is 5 that occurred on or about, what was it, April 6 27th of 2017. Can you tell me about the text 7 message exchange that you had? 8 MR. KLEBANOW: You're asking who he 9 was talking to? 10 MR. PIKE: I asked what his 11 recollection of the text message exchange is. 12 MR. KLEBANOW: Go ahead, if you 13 know. 14 MR. PIKE: Which we're here 15 about. 16 Q Sir, you're reading the hearing transcript. 17 I'm asking whether or not you have a 18 recollection of what was discussed on the text 19 message? 20 A I have a rough recollection, yes. 21 Q Why don't you let me know what that is. 22 A It's that I was texted by former Officer Sean Gorman to come to the Hustler Club because there were middle eastern types I think he said causing trouble. | |

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| | Page 49 | Page 51 |
| 1 Q | Okay. | 1 A Yes. |
| 2 A | I don't recall the exact words. | 2 Q Could you please read it into the record? |
| 3 | MR. PIKE: Let's mark that. | 3 A "Stop down to hustler. Apparently there is |
| 4 | (Defendant's <u>Exhibit E</u> | 4 some middle eastern types given people a hard |
| 5 | marked for identification.) | 5 time. We are in route." |
| 6 | MR. KLEBANOW: That's E? | 6 Q And that is from who? |
| 7 | THE NOTARY: Yes. | 7 A Sean Gorman. |
| 8 Q | Let me know when you've had a chance to review | 8 Q And what is your response? |
| 9 | <u>Exhibit E</u> . | 9 A "Packing up. Be there soon." |
| 10 A | Okay. | 10 Q And then Officer Gorman responds again? |
| 11 Q | Do you recognize this photograph? | 11 A "Take your time. Sorry for bothering you, sir." |
| 12 A | No. | 12 |
| 13 Q | Do you recognize the content of the text | 13 Q And then your response? |
| 14 | messages depicted within the photograph? | 14 A "Never a bother to tune up some haji haha." |
| 15 A | Yes. | 15 Q Okay. And then Officer Gorman responds with? |
| 16 Q | Is this a true and accurate copy of the text | 16 A Laugh out loud. |
| 17 | message exchange between you and Officer | 17 Q Well he says LOL? |
| 18 | Gorman on the night in question? | 18 A LOL. |
| 19 A | I believe so. | 19 MR. KLEBANOW: Hold on. Is ours |
| 20 | MR. KLEBANOW: I would just object. | 20 different than the one you have? |
| 21 | Objection. Go ahead though. Continuing | 21 MR. PIKE: Let me see. |
| 22 | objection on this line of questioning | 22 THE WITNESS: It is actually. |
| 23 | regarding this exhibit, but go ahead and | 23 MR. KLEBANOW: Mine doesn't say |
| 24 | answer the question. | 24 haha. |
| 25 | MR. PIKE: What's the objection? | 25 MR. AVERY: It is different. |
| | Page 50 | Page 52 |
| 1 | MR. KLEBANOW: Again, stating | 1 THE WITNESS: Did it get cut off? |
| 2 | objections and justification is not proper | 2 MR. KLEBANOW: Is there just one |
| 3 | during deposition. | 3 more thing? |
| 4 | MR. PIKE: All objections are | 4 MR. PIKE: I think so. |
| 5 | reserved except as to form and if I fix the | 5 MR. KLEBANOW: All right. I'm fine. |
| 6 | format of the question I'm -- | 6 I didn't see that. You're okay. Whatever. |
| 7 | MR. KLEBANOW: Objection. | 7 It's okay. As long as it's just one word. |
| 8 | MR. PIKE: Jared, I'm entitled | 8 Q Okay. So it's my understanding that both of |
| 9 | to do so and ask about it. Otherwise I'm | 9 you were officers on duty and working at the |
| 10 | going to consider your objections waived. | 10 time of this text message exchange? |
| 11 | MR. KLEBANOW: You can consider it | 11 A I don't know if he was on duty or not. I |
| 12 | whatever you want. It's not waived. I'm | 12 don't recall. |
| 13 | objecting to the line of questioning regarding | 13 Q Okay. You would defer to others on that? |
| 14 | this exhibit. I'm not instructing him not to | 14 A Yes. |
| 15 | answer the question. Go ahead and ask your -- | 15 Q Why would he go calling and asking for your |
| 16 | MR. PIKE: Your objections are | 16 assistance if he wasn't on duty? |
| 17 | preserved with respect to that. | 17 MR. KLEBANOW: Objection. You can |
| 18 | MR. KLEBANOW: Go ahead. | 18 answer. |
| 19 Q | You can answer. We can have the question read | 19 A I don't know. |
| 20 | back. | 20 Q All right. So I want you to assume then |
| 21 A | I'm sorry, could you -- | 21 Officer Gorman was on duty at that time. |
| 22 Q | Sure. Is this a true and accurate copy or | 22 Okay. Would you agree with me that this is an |
| 23 | representation of the text message exchange | 23 official call for police help with regard to a |
| 24 | between you and Gorman on the night in | 24 potential police action? |
| 25 | question? | 25 MR. KLEBANOW: Objection. You can |

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| | Page 53 | Page 55 |
| 1 | answer. | 1 Q Well, somebody else reading this could |
| 2 A | No. | 2 interpret that to mean that under no |
| 3 Q | He's asking you to respond in your capacity as | 3 circumstances do you have a problem -- a |
| 4 | a police officer, is he not? | 4 problem beating someone up, correct? |
| 5 A | Yes. | 5 MR. KLEBANOW: Objection. Go ahead. |
| 6 | MR. KLEBANOW: Objection. | 6 A I don't know because I didn't send it to |
| 7 Q | So we have a text message asking from one | 7 someone else. |
| 8 | police officer to another police officer | 8 Q You sent it -- I'm not asking who you sent it |
| 9 | requesting assistance with regard to a | 9 to, I'm asking whether or not you think |
| 10 | potential police action, correct? | 10 someone could infer from your use of the word |
| 11 | MR. KLEBANOW: Objection. Go ahead. | 11 never that you didn't have a problem under any |
| 12 A | I don't know. | 12 circumstances beating someone up; is that |
| 13 Q | Well, he's asking you to come down and help | 13 fair? |
| 14 | him with respect to some, quote, middle | 14 MR. KLEBANOW: Objection. |
| 15 | eastern types at the Hustler Club, correct? | 15 A I'm not sure how somebody would interpret it. |
| 16 A | Yes. | 16 Q Let's talk about the term never. There is no |
| 17 Q | And you were on duty and working at the time | 17 qualification on the term never, correct? |
| 18 | of this text message exchange, correct? | 18 A What do you mean qualification? |
| 19 A | Yes. | 19 Q There is no limitation, is there? |
| 20 Q | What's it mean to tune up someone? | 20 A I'm sorry, could I finish please? |
| 21 A | To fight. | 21 Q Sure. |
| 22 Q | Beat him up? | 22 A I'm sorry. I don't know what you mean by |
| 23 A | To fight in general. | 23 qualification of the term never. |
| 24 Q | To fight, to beat somebody up? | 24 Q There is no limitation on the term never. |
| 25 | MR. KLEBANOW: Objection. Go ahead. | 25 Never means never. |
| | Page 54 | Page 56 |
| 1 Q | What do you mean by it's never a bother? You | 1 A Okay. |
| 2 | don't have a problem doing that? | 2 Q Correct? |
| 3 A | That I believe my statement to the | 3 A Yes. |
| 4 | investigator, which still -- just a moment | 4 Q So with respect to your statement that it's |
| 5 | please. | 5 never a bother to tune up some haji, there is |
| 6 Q | Sir, I'm not asking you about your statement. | 6 no limitation as to whether or not it comes to |
| 7 | I asked you whether or not never a bother | 7 that or under certain circumstances, correct? |
| 8 | means you don't have a problem beating someone | 8 A If that's -- that is the definition of the |
| 9 | up. | 9 word never, yes. |
| 10 A | What I meant was that if we have to fight then | 10 Q You don't know what the definition of the term |
| 11 | we have to fight. | 11 never is? |
| 12 Q | Where does it say if we have to fight in this | 12 A Yes, I do. |
| 13 | text message? | 13 Q What does the term never mean to you? |
| 14 A | It doesn't. | 14 A I don't want to argue a dictionary definition |
| 15 Q | There is no qualifying language regarding | 15 that I don't know off the top of my head. I |
| 16 | that, is there? | 16 don't want to say something wrong. |
| 17 A | No. | 17 Q Under all circumstances. That's a definition |
| 18 Q | And, in fact, when you say never, it indicates | 18 of never, isn't it? |
| 19 | under no circumstances is it a problem, | 19 A Sure. |
| 20 | correct? | 20 Q So you would agree with me that some people |
| 21 | MR. KLEBANOW: Objection. You can | 21 could read this text message and indicate that |
| 22 | go ahead. | 22 you have, under all circumstances, never had a |
| 23 A | In the context that I was sending it? | 23 problem getting into a physical altercation |
| 24 Q | Yes. | 24 and tuning out some haji, correct? |
| 25 A | No. | 25 MR. KLEBANOW: Objection. Go ahead. |

| | | |
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| | Page 57 | Page 59 |
| 1 A | I don't agree with you. | 1 other specifications? |
| 2 Q | Okay. How about with the term haha; is that | 2 A I am not, no. |
| 3 | making a joke of the statement? | 3 Q So you don't have any knowledge as to what, if |
| 4 A | Yes. | 4 anything, the Cleveland Division of Police did |
| 5 Q | That you think it's funny that you would get | 5 to either research or investigation the |
| 6 | into a fight with some haji? | 6 meaning of this term or any of the other |
| 7 A | No. | 7 allegations in your charging letter, correct? |
| 8 Q | You can understand where some people might | 8 A I have the information that was given to me |
| 9 | take it that way, correct? | 9 from the transcripts of the hearing, and I |
| 10 | MR. KLEBANOW: Objection. Go ahead. | 10 believe at the time it was Detective Clark, |
| 11 A | I can't understand what other people -- I | 11 Officer Clark. I'm not sure. |
| 12 | can't -- I don't know the understanding of | 12 Q But my question to you is are you aware of any |
| 13 | other people. | 13 other investigation that was done either into |
| 14 Q | But you appreciate the fact that people can | 14 the meaning of the term or the context in |
| 15 | take this statement in a negative light, | 15 which that text message was given that was |
| 16 | correct? | 16 done by Cleveland Division of Police in the |
| 17 | MR. KLEBANOW: Objection. | 17 City of Cleveland before your disciplinary |
| 18 A | I don't know what other people appreciate. | 18 hearing? |
| 19 Q | I mean, were you being factitious when you | 19 A No, I'm not. |
| 20 | made this statement? | 20 Q Okay. So whether or not any investigation |
| 21 A | I was joking with a friend, yes. | 21 into the meaning of the term haji or that the |
| 22 Q | Okay. In response to a call for official | 22 text message never a bother to tune up some |
| 23 | police help? | 23 haji, haha, you have no understanding as to |
| 24 | MR. KLEBANOW: Objection. Go ahead. | 24 whether or not any investigation was done by |
| 25 A | He's not stating anywhere that it's a police | 25 the City, correct? |
| | Page 58 | Page 60 |
| 1 | action or help. | 1 A Correct. |
| 2 Q | So one police officer who is on duty calling | 2 Q If there was an investigation and the results |
| 3 | another police officer requesting assistance | 3 of that investigation indicated that the term |
| 4 | in dealing with a potential -- people having a | 4 haji, for example, can be used as an ethic |
| 5 | hard time, giving people a hard time at the | 5 slur, you wouldn't dispute that that was the |
| 6 | Hustler Club, you don't think that's a call | 6 result of their investigation, correct? |
| 7 | for police help? | 7 MR. KLEBANOW: Objection. |
| 8 | MR. KLEBANOW: Objection. Go ahead. | 8 A I don't know any results or any investigation. |
| 9 A | He didn't call. | 9 Q Okay. I mean, at the hearing and during -- |
| 10 Q | You don't think it's a request? | 10 well, strike that. |
| 11 A | I don't know. | 11 At the transcript of the hearing Clark |
| 12 Q | You don't think he's requesting your | 12 referred to his investigation and his finding |
| 13 | assistance at the Hustler Club? | 13 with respect to the fact that the term haji |
| 14 A | For a police action, I don't know. | 14 can be used as an ethic slur as well, correct? |
| 15 Q | You're on duty, correct? | 15 Do you see where that is indicated? |
| 16 A | Correct. | 16 A Just a moment, please. |
| 17 Q | Yeah. With respect to the disciplinary | 17 Q Sure. |
| 18 | proceeding that occurred with respect to your | 18 A The investigating officer states that on Line |
| 19 | use of this phrase and text message along with | 19 24, "Nothing that says that is a good term or |
| 20 | the October 27th use of force incident and | 20 is it a bad term. It's kind of a 50/50 thing. |
| 21 | this specification regarding your failure to | 21 You know, my research of the term says that it |
| 22 | cover your tattoos, are you aware of whether | 22 is something that's used to described as a |
| 23 | or not anyone in the Cleveland Division of | 23 status symbol for middle eastern men, but it |
| 24 | Police did any investigation with respect to | 24 also can be used as a derogatory term for |
| 25 | the terminology -- this terminology or these | 25 describing them." And that's pretty much the |

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| | Page 61 | Page 63 |
| <p>1 gist of the thing.</p> <p>2 Q So based upon that it's understandable --</p> <p>3 well, strike that.</p> <p>4 Based upon that statement that you</p> <p>5 just read into the record it's -- would you</p> <p>6 now have an understanding that there was an</p> <p>7 investigation done into the meaning of the</p> <p>8 term haji before your disciplinary hearing?</p> <p>9 A Yes.</p> <p>10 Q And the results of that investigation</p> <p>11 indicated that it could be used as a</p> <p>12 derogatory term, correct?</p> <p>13 A To me reading this it says that there is</p> <p>14 ambiguity, as it states. "There's nothing</p> <p>15 that says it is a good term or it is a bad</p> <p>16 term. It is kind of a 50/50 thing. You know,</p> <p>17 my research of the term says it's something</p> <p>18 that's used to describe as a status symbol for</p> <p>19 middle eastern men, that can also be used as a</p> <p>20 derogatory term for describing them as well."</p> <p>21 My personal interpretation, if you're</p> <p>22 asking for that, is that he's stating that</p> <p>23 there is nothing that says -- nothing that</p> <p>24 says that it is a good term or it is a bad</p> <p>25 term.</p> | <p>1 the Muslim faith?</p> <p>2 A No.</p> <p>3 Q Did you know if they were even middle</p> <p>4 easterners?</p> <p>5 A No.</p> <p>6 Q Did you know if they even followed a religion?</p> <p>7 A No.</p> <p>8 Q Do you know if they'd even ever been to Saudi</p> <p>9 Arabia?</p> <p>10 MR. KLEBANOW: Objection. Go ahead.</p> <p>11 A No.</p> <p>12 Q Do you know if they've ever been to Mecca?</p> <p>13 A No.</p> <p>14 Q You knew nothing about them, correct?</p> <p>15 A Correct.</p> <p>16 Q Did you know if they were the alpha male, as</p> <p>17 you call it?</p> <p>18 A Referring to a group or -- I'm sorry. Can you</p> <p>19 rephrase that?</p> <p>20 Q Sure. You said the term haji can refer to an</p> <p>21 alpha male in certain circles. Did you know</p> <p>22 whether or not any of these gentlemen were</p> <p>23 the, quote, unquote, alpha male?</p> <p>24 A No.</p> <p>25 Q So when you used the term haji it was an</p> | |
| | Page 62 | Page 64 |
| <p>1 Q Right. But he says it also can be derogatory,</p> <p>2 correct?</p> <p>3 A Correct.</p> <p>4 Q It could be either way, correct?</p> <p>5 A Correct.</p> <p>6 Q Okay. Just so I'm clear, when you received</p> <p>7 the call for help from Gorman via the text</p> <p>8 message that we've marked as <u>Exhibit E</u>, did</p> <p>9 you know whether or not any of the middle</p> <p>10 eastern types as referenced in the text</p> <p>11 message had made the hajj?</p> <p>12 MR. KLEBANOW: Objection. You can</p> <p>13 answer.</p> <p>14 A I never received a call from Officer Gorman.</p> <p>15 Q I said in the text message.</p> <p>16 A You prefaced that with when I received the</p> <p>17 call.</p> <p>18 Q A request. When you received a request to</p> <p>19 assist Officer Gorman at the Hustler Club to,</p> <p>20 quote, deal with some middle eastern types</p> <p>21 that were giving people a hard time did you</p> <p>22 know if any of those persons had made the</p> <p>23 hajj?</p> <p>24 A No.</p> <p>25 Q Did you know if any of those persons were of</p> | <p>1 assumption on your part that they were middle</p> <p>2 eastern Muslim and made the hajj or not?</p> <p>3 MR. KLEBANOW: Objection. Go ahead.</p> <p>4 A He stated they were middle eastern, so that</p> <p>5 wasn't an assumption. Going off his</p> <p>6 information.</p> <p>7 Q All right. Do you refer to all middle eastern</p> <p>8 persons as haji?</p> <p>9 A No.</p> <p>10 Q Besides this text message have you used the</p> <p>11 term haji to refer to anyone else at the</p> <p>12 Cleveland Division of Police?</p> <p>13 A No.</p> <p>14 Q Have you used it in any other written</p> <p>15 correspondence to anyone?</p> <p>16 A Not on duty and not on the job, no.</p> <p>17 Q So you don't use the term when you're on duty</p> <p>18 when you come upon a group of people you might</p> <p>19 believe are of middle eastern descent?</p> <p>20 A Not immediately, no.</p> <p>21 Q Have you ever used it or referred to it in</p> <p>22 police records?</p> <p>23 A Not in police records, no.</p> <p>24 Q Have you ever used it in any other written</p> <p>25 correspondence, whether it be text message or</p> | |

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| | Page 65 | Page 67 |
| 1 | email? | 1 MR. KLEBANOW: Objection. Go ahead. |
| 2 A | Related to the police? | 2 A That my picture was used with another officer |
| 3 Q | At any time. | 3 with the headlines officer uses N-word. |
| 4 A | Yes. | 4 Q Okay. Where was that published? |
| 5 Q | Okay. When did you do that? Excuse me. When | 5 A Several news media outlets. |
| 6 | did you do that? | 6 Q And do you know where the origin of the |
| 7 A | I don't recall. | 7 photograph that was published by -- I'm |
| 8 Q | Do you have a copy of that text message or | 8 assuming a newspaper, correct? |
| 9 | email? | 9 A I don't recall if it was in the newspaper. |
| 10 A | No. | 10 Q So you don't know where the alleged |
| 11 Q | Okay. Your complaint alleges that the | 11 publication occurred? |
| 12 | defendant arbitrarily and capriciously | 12 A It was on numerous media websites. |
| 13 | determined a word used by you to be | 13 Q And do you know the source of where any of |
| 14 | disparagement without any research or study. | 14 those unnamed media websites got your |
| 15 | Do you see that in Paragraph 36? | 15 photograph? |
| 16 A | Yes. | 16 A No. |
| 17 Q | Okay. And I think we've gone over this but | 17 Q So you don't have any evidence that the City |
| 18 | you have no evidence as to whether or not that | 18 of Cleveland released your photo or anyone |
| 19 | allegation is true or false, correct? | 19 else's with respect to the allegations in your |
| 20 A | Correct. | 20 complaint, correct? |
| 21 Q | And, in fact, the hearing at which you were | 21 A Correct. |
| 22 | present for your disciplinary was indicated by | 22 Q Can you direct me to any of those websites |
| 23 | Todd Clark that he had done research and | 23 where you claim that your picture was posted |
| 24 | investigation into the meaning of the term | 24 alongside another officer? |
| 25 | haji, correct? | 25 A Not at the moment, no. |
| | Page 66 | Page 68 |
| 1 A | Yes. | 1 Q Do you have copies of those websites where |
| 2 Q | So that's a false allegation; is it not -- | 2 your photograph allegedly was published next |
| 3 | MR. KLEBANOW: Objection. | 3 to another officer? |
| 4 Q | -- at the time the complaint was filed? | 4 A I don't possess those, no. |
| 5 A | I don't know. | 5 Q Okay. Do you know when that alleged |
| 6 Q | Well, it's not true, correct? | 6 publication occurred? |
| 7 | MR. KLEBANOW: Objection. Go ahead. | 7 A I don't recall the date, no. |
| 8 A | I don't know. | 8 Q Okay. And you don't know what media or news |
| 9 Q | You were present at the hearing where it was | 9 outlet that that website was allegedly |
| 10 | indicated that he had done investigation and | 10 associated with, do you? |
| 11 | research into the term haji before your | 11 A I don't know the exact website, no. |
| 12 | disciplinary hearing, correct? | 12 Q Well, do you have any information to give me |
| 13 | MR. KLEBANOW: Objection. Go ahead. | 13 with regard to the website or the news |
| 14 A | Correct. | 14 publication that put that out? |
| 15 Q | Do you have any reason to dispute that that | 15 A No. |
| 16 | investigation that Mr. Clark testified about | 16 Q Your next -- so you have no evidence as to |
| 17 | doing wasn't performed by him? | 17 whether or not that allegation is true or |
| 18 A | No. | 18 false with respect to the City of Cleveland, |
| 19 Q | Next page on Paragraph 37 you make an | 19 correct? |
| 20 | allegation that the City of Cleveland released | 20 MR. KLEBANOW: Objection. Go ahead. |
| 21 | a photograph of you along with a photograph of | 21 A Which one is that again? I'm sorry. |
| 22 | another officer who repeatedly used the, | 22 Q When you're alleging that it was the City of |
| 23 | quote, unquote, N-word. Do you see that? | 23 Cleveland that released your photograph. |
| 24 A | Yes. | 24 A Correct. |
| 25 Q | What's the basis of that allegation? | 25 Q You don't have any information or evidence or |

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| | Page 69 | Page 71 |
| <p>1 testimony to offer today as to whether or not 2 that allegation is true or false, correct? 3 A Correct. 4 Q Okay. Next paragraph you allege that the 5 intent in releasing the two photographs 6 together was to diminish your standing as a 7 police officer. What's your -- what's your 8 evidence or basis for that belief? 9 I mean, do you believe that? Did you 10 believe that they -- that the City of 11 Cleveland released your photograph with an 12 intent to diminish your standing? 13 A Unequivocally, yes. 14 Q But you don't even know if they released the 15 photograph to begin with, right? 16 A I don't know. 17 Q All right. So despite your belief as to that, 18 what is the evidence that you point to to 19 support your belief? 20 A I don't have anything with me right now. 21 Q Do you have anything anywhere? 22 A I don't know. 23 Q So as you sit here today you are not aware or 24 have knowledge of any evidence of an intent by 25 the City of Cleveland to diminish your</p> | <p>1 whether or not someone is on duty or off duty 2 as to whether or not they would be disciplined 3 with respect to using that word, correct? 4 A I don't know. 5 Q I think that's what you just testified to, 6 that you don't have an opinion as to whether 7 or not they should be disciplined whether they 8 were off duty, correct; but they should never 9 use it while on duty? 10 A The word should never be used. 11 Q My question to you was was it your belief and 12 opinion that they should be disciplined for 13 using the N-word while off duty? 14 A I don't know. I don't make the rules. 15 Q No, I'm asking you whether or not -- what your 16 opinion is on the subject cuz you made an 17 allegation in the complaint regarding it. I'm 18 just asking what your opinion is. 19 A I'm sorry, I need you to rephrase the 20 question, exactly what it is. 21 Q Sure. If a police officer were to use the 22 N-word off duty under any circumstances is it 23 your understand -- is it your belief that they 24 should be disciplined for that? 25 A I don't know.</p> | |
| | Page 70 | Page 72 |
| <p>1 standing as alleged in Paragraph 38 of your 2 complaint, correct? 3 A I don't know the City's official intent. 4 Q That wasn't my question, sir. My question to 5 you is as you sit here today you don't have 6 any evidence or testimony to offer that would 7 support your allegation in Paragraph 38 of the 8 complaint that it was the intent of the City 9 of Cleveland in allegedly releasing a 10 photograph to diminish your standing as a 11 police officer; is that a true statement? 12 A Yes. 13 Q In Paragraph 40 you indicate that the use of 14 the N-word is unambiguously and universally 15 accepted as disparaging. Is your position 16 then that that word should never be used by an 17 officer? 18 A Absolutely. 19 Q And that any use by the officer, whether on or 20 off duty, would be subject to disciplinary 21 proceedings? 22 A I can't argue for someone's off duty conduct 23 but that absolutely should never be a word 24 used by a police officer on duty. 25 Q Okay. So you draw a distinction between</p> | <p>1 Q You don't have an opinion one way or another? 2 A Just based on that, I don't know. My opinion 3 is that it's an absolutely terrible word to 4 use that and it should never be used, but as 5 far as the discipline goes I can't argue what 6 discipline the City should be giving to 7 people. 8 Q Okay. You've alleged a First Amendment 9 freedom of speech claim in this case saying 10 that you have the right to use a word such as 11 haji and to not be disciplined for doing so in 12 the context of the text message that we've 13 just read, correct? 14 A Correct. 15 Q Okay. So if someone were to have used the 16 word -- the N-word while -- during the -- in 17 the employment of the City of Cleveland as -- 18 and on duty as a police officer it's your 19 belief they should be disciplined for that, 20 correct? 21 A If a police officer uses that word in the 22 course of his duty, absolutely. 23 Q Okay. How about if he's off duty, should he 24 be disciplined for that, for the statement, 25 the mere statement of the word -- of the</p> | |

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| | Page 73 | Page 75 |
| 1 N-word; should he be disciplined for it? 2 A I don't know. 3 Q So you have no objection as to whether or not 4 the person is or is not disciplined for using 5 the N-word while off duty? 6 MR. KLEBANOW: Objection. Go ahead. 7 A I don't know how the discipline and how things 8 can affect off duty and on duty so I don't 9 know. 10 Q I'm asking you your opinion, sir. I'm asking 11 your opinion as to whether or not someone 12 should be disciplined by the City of Cleveland 13 for a word or a phrase that is used while they 14 are not on duty. 15 A My opinion is that I don't know. 16 Q You would defer to the City of Cleveland then 17 with respect to that -- 18 MR. KLEBANOW: Objection. 19 Q -- since you don't have an opinion on it? 20 MR. KLEBANOW: Objection. 21 A My opinion stands that I don't -- I don't 22 know. 23 Q So you have no opinion as to what, if any, 24 discipline should be imposed upon an officer 25 who uses the N-word while off duty; is that a | 1 an off-duty officer that uses the N-word 2 should be disciplined; is that a true 3 statement of your position? 4 A Yes. 5 Q Okay. In Paragraph 44 you allege that, "The 6 singular use of a word used by Plaintiff Aaron 7 Petitt" -- in this case the term haji -- "In 8 responding to civil disobedience by apparently 9 Arab-American men as the Hustler strip club is 10 not disparaging." What do you mean by civil 11 disobedience? 12 MR. KLEBANOW: Objection. Go ahead. 13 MR. PIKE: It's his complaint. 14 I'm just asking. 15 MR. KLEBANOW: He can answer. 16 A Possibly a civil issue. 17 Q What do you mean by civil disobedience? Is 18 that something that police could respond to? 19 A If we're called to. 20 Q Okay. And in Paragraph 45, the next page, I 21 think I've covered this. You have no 22 evidence -- well, strike that. 23 What's your -- what's your evidence or 24 belief that the City of Cleveland linked you 25 with any other officer with respect to your | |
| | Page 74 | Page 76 |
| 1 fair statement of your position? 2 A Yes. 3 Q You don't have a position one way or another, 4 right? 5 MR. KLEBANOW: Objection. 6 A I believe you're putting words in my mouth 7 with that statement so I don't agree with 8 that. 9 Q I'm not. You're not offering an opinion. 10 That's what I'm asking you. 11 MR. KLEBANOW: He's answered the 12 question. 13 Q You have no opinion either way as to whether 14 or not an officer who is off duty and uses the 15 N-word should be disciplined? 16 A I don't know because that's -- there is too 17 many different situations. I don't know. 18 Q I'm not asking your opinion, I'm asking 19 whether or not I'm stating your position 20 correctly. Do you understand that? I'm 21 asking whether or not I'm correctly stating 22 your opinion on that issue whether or not -- 23 and correct me if I'm wrong with this 24 statement, but it's your opinion that you have 25 no position one way or another whether or not | 1 conduct? 2 A I'm sorry, could you repeat that? 3 Q Sure. In Paragraph 45 you allege that, "In 4 order to cause embarrassment and reputational 5 damages, City of Cleveland linked plaintiff, 6 Aaron Petitt with the other officer." Do you 7 see that? 8 A Yes. 9 Q Who is the other officer you're talking about? 10 A Detective Kraynik. 11 Q What is your evidence that the City of 12 Cleveland did anything to link the two of you 13 together? 14 A We were assigned the same classes as 15 punishment following -- it was following the 16 hearings. 17 Q Okay. 18 A We were -- had hearings on the same day, same 19 time. We were all linked together by the 20 start of the case from Officer Gorman's phone 21 itself. 22 Q Well, that's not -- that's the facts of the 23 case that link the two of you, correct? 24 A Correct. 25 Q I mean, the three of you text messaged | |

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| | Page 77 | Page 79 |
| <p>1 together, correct?</p> <p>2 A No.</p> <p>3 Q Well, you text messaged somebody who was</p> <p>4 Officer Gorman and then Gorman texted Kraynik</p> <p>5 on occasion, correct?</p> <p>6 A I believe so, yes.</p> <p>7 Q So you both had Officer Gorman's cell phone in</p> <p>8 common, correct?</p> <p>9 A Correct.</p> <p>10 Q That link is a link that you draw based on the</p> <p>11 facts of the case, correct?</p> <p>12 A Correct.</p> <p>13 Q At any time are you aware of any publication</p> <p>14 that was put out by the City of Cleveland</p> <p>15 saying that the two of you were linked</p> <p>16 together for any reason?</p> <p>17 A No.</p> <p>18 Q And so I'm clear, you don't have any evidence</p> <p>19 to support the allegation that this link that</p> <p>20 you claim occurred was to embarrass or damage</p> <p>21 your reputation; is that true?</p> <p>22 A Correct.</p> <p>23 Q And just so I'm clear, the only other reasons</p> <p>24 you think the two of you were linked is</p> <p>25 because you had disciplinary hearings on the</p> | <p>1 correct?</p> <p>2 MR. KLEBANOW: Objection. Go ahead.</p> <p>3 A I don't know.</p> <p>4 Q All right. With respect to the disciplinary</p> <p>5 hearings occurring on the same day, that's</p> <p>6 commonplace; is it not?</p> <p>7 A I'm not sure.</p> <p>8 Q Well, you've been through several disciplinary</p> <p>9 proceedings; have you not?</p> <p>10 A Two that I recall.</p> <p>11 Q And there were other disciplinary hearings</p> <p>12 that were conducted on the same day, correct?</p> <p>13 A Correct.</p> <p>14 Q And in your ten years of being on the</p> <p>15 Cleveland Division of Police you're aware of</p> <p>16 other people that have attended disciplinary</p> <p>17 hearings, correct?</p> <p>18 A Correct.</p> <p>19 Q And they schedule multiple hearings on those</p> <p>20 days; do they not?</p> <p>21 A I don't know.</p> <p>22 Q So there is nothing out of the ordinary as far</p> <p>23 as you know that the two of you were -- had</p> <p>24 disciplinary hearings on the same day, right?</p> <p>25 A I don't know.</p> | |
| | Page 78 | Page 80 |
| <p>1 same day?</p> <p>2 A No. And we were both sent to the same</p> <p>3 sensitivity training I believe it was.</p> <p>4 Q Are they required to hold separate sensitivity</p> <p>5 trainings if they impose similar discipline</p> <p>6 upon numerous officers?</p> <p>7 A I don't believe so.</p> <p>8 Q Okay. And that's happened in the past, has it</p> <p>9 not, where officers get assigned to</p> <p>10 sensitivity training for unrelated matters,</p> <p>11 correct?</p> <p>12 A I don't know.</p> <p>13 Q You would have no reason to dispute that, do</p> <p>14 you?</p> <p>15 A I have never dealt with it before so I don't</p> <p>16 know.</p> <p>17 Q Okay. You're not alleging that you should</p> <p>18 have separate sensitivity training for every</p> <p>19 officer that has to undergo it pursuant to a</p> <p>20 disciplinary proceeding, correct?</p> <p>21 A No.</p> <p>22 Q I mean, it's acceptable under the terms of the</p> <p>23 agreement and the general police orders to</p> <p>24 have everyone who is ordered to attend</p> <p>25 sensitivity training to do so together,</p> | <p>1 Q And then just so I'm clear, was this other</p> <p>2 officer at your disciplinary hearing?</p> <p>3 A Can you rephrase that?</p> <p>4 Q Sure. You had a separate disciplinary</p> <p>5 hearing, correct?</p> <p>6 A Yes.</p> <p>7 Q If you look at the hearing transcript nowhere</p> <p>8 does this Officer Kraynik or Gorman appear as</p> <p>9 an attendee, correct?</p> <p>10 A Correct.</p> <p>11 Q In fact, neither one of them were there, were</p> <p>12 they?</p> <p>13 A No.</p> <p>14 Q So you had a separate hearing and these other</p> <p>15 officers had separate hearings, correct?</p> <p>16 A Correct.</p> <p>17 Q With respect to your -- the October 2017</p> <p>18 incident that you were found guilty of charges</p> <p>19 on, do you dispute that you didn't have your</p> <p>20 tattoos covered pursuant to Cleveland Division</p> <p>21 of Police policy and orders?</p> <p>22 A No.</p> <p>23 Q You're supposed to have them covered, right?</p> <p>24 A Correct.</p> <p>25 Q You had them covered at roll call, correct?</p> | |

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| | Page 81 | Page 83 | |
| 1 A | Correct. | 1 Q | So you offered no evidence in opposition of |
| 2 Q | And then you took them off later that day? | 2 | the allegations and charges against you with |
| 3 A | Yes. | 3 | respect to that specification, correct? |
| 4 Q | Against police orders? | 4 A | Correct. |
| 5 A | Yes. | 5 Q | Okay. All right. With respect to -- taking a |
| 6 Q | So you're not disputing that that's a valid | 6 | look at <u>Exhibit C</u> , which is the May 10, 2018 |
| 7 | charge and that the finding of guilt against | 7 | letter notifying you of your six day |
| 8 | you well founded, correct? | 8 | suspension. Take a look at that. |
| 9 A | Correct. | 9 A | Just a moment please. |
| 10 Q | With respect to the incident, it's the same | 10 Q | Sure. |
| 11 | day of the incident where you were found | 11 A | Okay. |
| 12 | guilty of failing to use proper de-escalation | 12 Q | First -- last full paragraph on the second |
| 13 | techniques. Do you recall that traffic stop? | 13 | page, it indicates that, "I have accepted the |
| 14 A | I do. | 14 | recommendation of the Hearing Officer and I |
| 15 Q | With respect to that traffic stop, as a result | 15 | find there is just cause to impose discipline. |
| 16 | of you having to physically restrain the | 16 | As such, I find you guilty of the |
| 17 | suspect it's my understanding you suffered an | 17 | administrative charges and I am issuing you a |
| 18 | injury, correct? | 18 | six work day suspension" -- paren, "Group II |
| 19 A | Correct. | 19 | offense, first offense, mitigating factors; no |
| 20 Q | Did you miss any work -- time at work because | 20 | active discipline," correct? Did I read that |
| 21 | of that injury? | 21 | correctly? |
| 22 A | Yes. | 22 A | Correct. |
| 23 Q | How much? | 23 Q | Do you know what the minimum disciplinary |
| 24 A | About 90 days. | 24 | discipline imposed for a Group II offense is? |
| 25 Q | So you were off work for three months with | 25 A | No. |
| | Page 82 | Page 84 | |
| 1 | respect to the actions you took on October 27, | 1 Q | Do you have any reason to dispute that it's |
| 2 | 2017, correct? | 2 | six days? |
| 3 A | Correct. | 3 A | No. |
| 4 Q | Okay. And it was the opinion of the Cleveland | 4 Q | Are you aware of the general police orders? |
| 5 | Division of Police that that could have been | 5 | Do you know what those are? |
| 6 | avoided had you followed proper de-escalation | 6 A | Yes. |
| 7 | techniques, correct? | 7 Q | And as a police officer you're required to be |
| 8 A | Correct. | 8 | both familiar with them and have an |
| 9 Q | And obviously had you not had to use physical | 9 | understanding of them, correct? |
| 10 | force you would not have been injured with | 10 A | Correct. |
| 11 | respect to subduing that suspect, correct? | 11 Q | And you're expected to follow them as well? |
| 12 A | Correct. | 12 A | Correct. |
| 13 Q | What was the injury you suffered? | 13 | MR. PIKE: Mark this please. |
| 14 A | It was a small tear above my groin and lower | 14 | (Defendant's <u>Exhibit F</u> |
| 15 | abdomen. | 15 | marked for identification.) |
| 16 Q | Is it like a hernia? | 16 Q | I know it's long. If you want to take a look |
| 17 A | It mimicked -- I don't want to quote medical | 17 | through it you can, or please do. The last |
| 18 | that I don't know. | 18 | four pages of it contain a table of |
| 19 Q | I got it. All right. Yeah. | 19 | discipline. I'm going to direct your |
| 20 | And you didn't dispute the charges with | 20 | attention to that. |
| 21 | respect to your failure to use | 21 A | Okay. |
| 22 | de-escalation -- proper de-escalation | 22 Q | Feel free to look through it if you think you |
| 23 | techniques at your disciplinary hearing, | 23 | need to. I meant the remainder. You can look |
| 24 | correct? | 24 | through the remainder if you want to. |
| 25 A | Correct. | 25 | Have you ever seen this before? |

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| | Page 85 | Page 87 | |
| 1 A | Yes. | 1 Q | So irrespective of whether or not you were |
| 2 Q | Okay. And what's your understanding of what | 2 | found guilty of making disparaging comments |
| 3 | this table of discipline is? | 3 | you're defining that you failed to use proper |
| 4 A | That it's a discipline matrix for offenses | 4 | de-escalation techniques as a Group II offense |
| 5 | versus the amount of time that they can give | 5 | would have resulted in you receiving a minimum |
| 6 | you, the amount of time you'd be suspended and | 6 | six day suspension without pay, correct? |
| 7 | the different varying factors that they | 7 A | Correct. |
| 8 | supposedly weigh into it. | 8 Q | The allegations in your complaint indicate |
| 9 Q | All right. It provides you as a police | 9 | that -- or I should say allege that you were |
| 10 | officer an understanding as to what discipline | 10 | not given any notice regarding the use of a |
| 11 | you would face for a particular group of | 11 | singular word of ambiguous meaning that would |
| 12 | offenses, correct? | 12 | result in punishment, correct? |
| 13 A | Correct. | 13 A | Correct. |
| 14 Q | There is three group offenses, Group I, Group | 14 Q | Isn't there a policy, a general police order |
| 15 | II and Group III, correct? | 15 | in place that indicates the use of any |
| 16 A | Correct. | 16 | disparaging terms can result in discipline? |
| 17 Q | Group I is the least serious and Group III is | 17 A | I don't recall the exact verbiage of the |
| 18 | the most, right? | 18 | policy. |
| 19 A | Correct. | 19 Q | But you're aware that you can be disciplined |
| 20 Q | And based upon the charging -- both the | 20 | if you use language or engage in contact |
| 21 | charging letter as well as the May 10th | 21 | that's disparaging, demeaning, things of that |
| 22 | disciplinary letter is it your understanding | 22 | nature? |
| 23 | that you were charged with Group II offenses? | 23 A | Yes. |
| 24 A | Yes. | 24 Q | I believe -- with respect to your charging |
| 25 Q | And under the matrix of which you were aware | 25 | letter that's <u>Exhibit B</u> , if you want to take a |
| | Page 86 | Page 88 | |
| 1 | is it fair to say that now has it refreshed | 1 | look at that. I'll direct your attention to |
| 2 | your recollection with regard to the range of | 2 | Page 3. Under the values mission statement of |
| 3 | discipline that could be imposed for Group II | 3 | the Cleveland Division of Police. |
| 4 | offenses? | 4 A | Okay. |
| 5 A | Yes. | 5 Q | Okay. Do you see where it says respect? |
| 6 Q | And what's the -- under the terms of this | 6 A | Yes. |
| 7 | table of discipline what is the minimum group | 7 Q | Okay. And tell me if I read this wrong, but, |
| 8 | discipline that can be imposed under a Group | 8 | "We will treat all people with dignity, |
| 9 | II offense? | 9 | compassion, courtesy and without prejudice," |
| 10 A | It states six to seven day suspension without | 10 | correct? |
| 11 | pay. | 11 A | Correct. |
| 12 Q | Okay. And so I'm clear, you were charged with | 12 Q | Did I read that correctly? |
| 13 | multiple violations with regard to your | 13 A | Yes. |
| 14 | disciplinary hearing, correct? | 14 Q | Okay. With respect to your text message that |
| 15 A | Correct. | 15 | we're here today about, do you think that |
| 16 Q | At least two Group II offenses? | 16 | indicating that you've got no problem tuning |
| 17 A | Correct. | 17 | up some haji haha is treating those persons or |
| 18 Q | And you were found guilty of both those Group | 18 | referring to those persons with dignity, |
| 19 | II offenses? | 19 | compassion, courtesy and respect? |
| 20 A | Correct. | 20 A | I never interacted with anybody. |
| 21 Q | Is it fair to say that being found guilty of | 21 Q | Do you think that your comment with respect to |
| 22 | either one of those Group II offenses would | 22 | those persons was respectful? |
| 23 | have imposed upon you a minimum of six day | 23 A | I'm not sure. |
| 24 | suspension without pay? | 24 Q | You don't believe it's somewhat disrespectful |
| 25 A | Yes. | 25 | to indicate that you have no problem tuning |

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| <p>1 them up without even meeting or talking to 2 them?</p> <p>3 A In a conversation with my friend the way that 4 we were speaking, it's the same way I would 5 speak to someone else.</p> <p>6 Q You wouldn't make that comment to them 7 directly, would you?</p> <p>8 A No.</p> <p>9 Q Okay. And it's my understanding during your 10 Garry interview you felt like -- you stated 11 that you felt like an idiot for making the 12 statement. Is that a fair representation?</p> <p>13 A It is.</p> <p>14 Q And you still feel that way today?</p> <p>15 A I do.</p> <p>16 Q How about with respect to the integrity 17 portion? "We hold ourselves accountable to 18 the highest standards of moral and ethical 19 conduct, we maintain public trust by being 20 honest, competent and consistent with our 21 values and action." Do you think that your 22 text message with respect to that encounter is 23 of the highest standards of moral and ethical 24 conduct?</p> <p>25 A Yes.</p> | <p>1 today would reasonably diminish the esteem of 2 the police by some persons?</p> <p>3 A No.</p> <p>4 Q Are you aware of anybody expressing an opinion 5 that -- outside the City of Cleveland that has 6 an issue with the context of your text 7 message?</p> <p>8 MR. KLEBANOW: Objection. Go ahead.</p> <p>9 A I don't know.</p> <p>10 Q No one has expressed to you an opinion that 11 they find your text message to be derogatory 12 or demeaning?</p> <p>13 A To me personally, no.</p> <p>14 Q Okay. Do you think that -- go ahead. I'm 15 sorry. I didn't mean to cut you off.</p> <p>16 A I was actually going to ask do you mind if I 17 grab some more water and use the bathroom 18 again?</p> <p>19 Q No.</p> <p>20 VIDEO TECHNICIAN: We're off the record 21 as 11:37.</p> <p>22 (Short recess.)</p> <p>23 VIDEO TECHNICIAN: We're back on the 24 record at 11:50.</p> <p>25 By Mr. Pike:</p> |
| <p>1 Q You don't think that there is anything 2 disparaging or defamatory about the way that 3 you used that term in referring to these 4 middle eastern types?</p> <p>5 MR. KLEBANOW: Objection. Go ahead.</p> <p>6 A No.</p> <p>7 Q Okay. If for some reason you were a party to 8 a conversation that used disparaging terms and 9 comments would you correct that person?</p> <p>10 A I don't know.</p> <p>11 Q Would you indicate that that type of language 12 was unacceptable?</p> <p>13 A I don't know.</p> <p>14 Q Have you been -- strike that.</p> <p>15 Moving to the next page under 16 procedures, Roman numeral I, do you see where 17 it says, "Not engaging in any conduct, speech 18 or acts while on or off duty, which would 19 reasonably tend to diminish the esteem of the 20 Division of Police or its personnel in the 21 eyes of the public"? Do you see where I read 22 that?</p> <p>23 A I do.</p> <p>24 Q Can you appreciate where -- from the content 25 and context of your text message we're here</p> | <p>1 Q Sir, you've indicated that -- strike that. 2 With respect to the investigation or 3 your disciplinary hearing with respect to the 4 charges we've been talking about, do you think 5 the City of Cleveland should have done 6 something differently than what they did?</p> <p>7 A Yes.</p> <p>8 Q What? I realize you don't agree with the 9 outcome and opinion as to the conclusions they 10 made, but with respect to the process they 11 went through before the hearing, do you have 12 anything that you think they should have done 13 differently?</p> <p>14 A I believe they should have followed the facts 15 that were discovered by Investigator Clark 16 that determined that, as he stated, it was 17 kind of a 50/50 thing and --</p> <p>18 Q It can go either way, right?</p> <p>19 A Correct.</p> <p>20 Q All right. So putting aside they decided 21 that -- the City decided to side all on the 22 side that they believed that the term as used 23 in your -- or I should say the phrase as used 24 via your text message was derogatory or 25 demeaning -- sorry, disparaging. There is a</p> |

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| 1 | lot of D's. So it was disparaging. Putting 2 aside their opinion that they fell on the 3 other side of what your opinion was on how 4 that term was used, is there anything about 5 the way they conducted the process beforehand 6 that you think should have been done 7 differently? | 1 and white, correct? 2 A Correct. 3 Q All right. Is there anything about the 4 wording or terminology used in the rules 5 themselves that you take issue with? You can 6 take a look at your <u>Exhibit C</u> . And that's the 7 charging -- I'm sorry. <u>Exhibit B</u> is the 8 charging letter. |
| 8 A | I'm sorry. Not that I know of. | 9 A Not that I recall off the top of my head. |
| 9 Q | I mean, they did -- we've talked about it a 10 little today, and Mr. Clark indicates in the 11 hearing that he did do an investigation and 12 the results were -- according to him it can go 13 either way, depending on, you know, how you 14 see the text message, correct? I'm 15 paraphrasing, sir. I don't mean to say word 16 for word. It's 50/50, right? | 10 Q Okay. As far as you know they followed the 11 rule -- the City of Cleveland followed the 12 rules and the process and procedure of which 13 you were aware with regard to the discipline 14 imposed, correct? |
| 17 A | Correct. | 15 A Correct. |
| 18 Q | All right. I mean, they did put you on notice 19 as to what they were charging. They did put 20 you on notice as to what they were charging 21 you with, right? | 16 Q Is there anything about the process by which 17 the disciplinary hearings and the discipline 18 was imposed that you feel is either arbitrary 19 or capricious? |
| 22 A | Yes. | 20 A Can you define capricious please? |
| 23 Q | All right. And they -- they did give you an 24 opportunity to respond to those charges, 25 right? | 21 Q Well, I don't know that I can do that for you. 22 What's your understanding of capricious? |
| | Page 94 | Page 96 |
| 1 A | Yes. | 1 Q How about capricious having like no basis? |
| 2 Q | The provisions and the rules by which they 3 were going to impose discipline were spelled 4 out for you in the charging letter, right? | 2 A Okay. 3 Q Okay. You understand the basis for the 4 charges that were lodged against you, correct? |
| 5 A | Yes. | 5 A Yes. |
| 6 Q | And you had prior notice of those rules and 7 regulations, right? | 6 Q You don't agree with the outcome but you can 7 appreciate that the basis for which they 8 imposed discipline was spelled out to you well 9 in advance of your hearing, correct? |
| 8 A | Yes. | 10 A I understand what is being stated and I 11 understand the charges. I don't agree with 12 them but I understand what they say and what 13 they are. |
| 9 Q | You were aware that, you know, using, you 10 know, disparaging terms and under the rules 11 that are cited in your charging letter could 12 result in discipline against you, correct? | 14 Q Okay. How about with respect to -- there is 15 an allegation that you were treated more 16 harshly or severely than others. Do you have 17 any evidence or testimony to offer with 18 respect to those allegations? |
| 13 A | Yes. | 19 A Not at the moment, no. |
| 14 Q | You weren't surprised about that, were you? | 20 Q Okay. So you don't -- with respect to this 21 other officer who may have used the N-word 22 while off duty, you don't know any of the 23 particular facts or circumstances surrounding 24 any of the discipline imposed upon him, 25 correct? |
| 15 A | Yes. | |
| 16 Q | I mean, not with respect to how the discipline 17 was imposed but you -- I mean, you had prior 18 understanding that in the event the Division 19 of Police found the terms or words or phrases 20 that an officer used while on duty were 21 disparaging that discipline could be imposed, 22 correct? | |
| 23 | MR. KLEBANOW: Objection. Go ahead. | |
| 24 A | Yes. | |
| 25 Q | I mean, that's in the rules. It's in black | |

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| 1 A | Not right now, no. | 1 attorney for CPPA. |
| 2 Q | And do you have any opinion one way or another 3 whether or not he should have received 4 discipline? | 2 THE WITNESS: That was my question. 3 MR. KLEBANOW: Those don't count. 4 He's asking you outside of that. Unless I'm 5 wrong. |
| 5 A | No. | 6 Q Let me ask it this way. 7 MR. KLEBANOW: Go ahead. Yeah. |
| 6 Q | Have you ever had any conversations outside 7 the presence of counsel with any member of the 8 CPPA? | 8 Q I'll try to walk through it so that we're 9 clear on it. |
| 9 A | Yes. | 10 Did you have any meetings regarding 11 your discipline and the text message that your 12 lawsuit is pertaining to with anyone from 13 CPPA? |
| 10 Q | How about have you ever had any of those 11 conversations -- again, this is always going 12 to be without counsel present, okay? I don't 13 want you to testify about anything that you 14 may have discussed with counsel present, okay? | 14 A Not without counsel. I don't recall -- |
| 15 A | Okay. | 15 Q Okay. |
| 16 Q | You understand. So I don't have to keep 17 giving you that qualifier, okay? | 16 A -- every meeting. |
| 18 | MR. KLEBANOW: Do you understand 19 that, Aaron? If anything has to do with 20 conversations you've had with your attorneys, 21 that's not what he's asking you. This does not 22 include -- | 17 Q All right. Did you have any discussions with 18 any member of the CPPA outside the presence of 19 counsel where the text message or the 20 allegations in your complaint or your 21 disciplinary proceedings were discussed? |
| 23 A | Can I ask a question? Does this include if 24 the union's attorney was in the room as well? | 22 A Yes. |
| 25 | MR. KLEBANOW: That would be | 23 Q Okay. When did that discussion occur? 24 A Shortly after I received the charge back or 25 the list of information, whatever you call it. |
| | Page 98 | Page 100 |
| 1 | counsel, yes. | 1 Q Who did you have -- was it a meeting or a 2 conversation? |
| 2 A | Yes, so -- | 3 A A conversation. |
| 3 | MR. PIKE: That raises an | 4 Q Over the phone? |
| 4 | interesting point. Are you both representing | 5 A Yes. |
| 5 | CPPA in this lawsuit? | 6 Q Okay. Who did you have a conversation with? |
| 6 | MR. KLEBANOW: Yes. | 7 A I believe it was Officer Medina, a member of 8 the CPPA. |
| 7 | MR. AVERY: Yes. | 9 Q What is his position, if you know, with the 10 CPPA? |
| 8 Q | Okay. So yeah. | 11 A I don't recall his exact position with the 12 CPPA. |
| 9 | MR. KLEBANOW: I answered yes. If | 13 Q Okay. What was the content of the discussion, 14 if you recall? |
| 10 | your attorneys were present -- your attorneys | 15 A He's an instructor for use of force and a 16 subject matter expert and the conversation was 17 related to Specification 2. |
| 11 | representing you in any capacity were present, | 18 Q Okay. |
| 12 | that's not what he's asking. He's asking for 13 -- I mean, correct me if I'm wrong. | 19 A Which relates to the de-escalation. |
| 14 | MR. PIKE: No. | 20 Q Okay. Any other discussions with anyone from 21 CPPA regarding either, you know, this lawsuit 22 or the allegations in your complaint or the 23 text message exchange -- |
| 15 | MR. KLEBANOW: He's asking for 16 questions -- | 24 A I've spoken -- |
| 17 | MR. PIKE: I don't want to run 18 afoul. | 25 Q -- outside of counsel? |
| 19 | MR. KLEBANOW: -- if the attorneys | |
| 20 | were not present. So if you had a | |
| 21 | conversation with another member of CPPA that | |
| 22 | was not an attorney and no attorneys were | |
| 23 | present representing you. | |
| 24 | MR. AVERY: Joe was present. | |
| 25 | MR. KLEBANOW: Right, if your | |

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| 1 A | When I initially received the charge packet I know for a fact I called Jeff Follmer, our union president. | 1 Q In this case there is an allegation that you lost wages or that you're going to lose future lost wages somehow. Can you explain the basis for that allegation or why you believe that to be the case? |
| 4 Q | Okay. All right. Do you remember what you discussed with Mr. Follmer? | 6 A From the moment that the charges were put on the news and my face was all over with officer using an N-word. My partner and I oftentimes patrol on foot in the east bank and around the downtown area, engage with community members, and while just walking around talking to people I had members of the community come up to me and recognize me from the news as the officer and the N-word. I've had numerous people say oh, that's the police officer that used the N-word. That's the racist. |
| 6 A | Not exactly. | 17 I've been at a family party at my parents' house where family members, you know, had to come to my family and say hey, you know, I saw Aaron on TV. I can't believe he'd say these things, the N-word. He's racist. |
| 7 Q | Did you express -- did you tell him what the context of the text message was? | 22 And my own father and family members have to defend me against my family. |
| 9 A | Yes. | 24 I've had people that I worked with from all over when I was looking into other jobs |
| 10 Q | Did he express his displeasure with the context of the text message? | |
| 12 A | I don't recall the conversation. | |
| 13 Q | Did he condone the use of the phraseology in your text message? | |
| 15 | MR. KLEBANOW: Objection. Go ahead. | |
| 16 A | I don't recall the conversation. | |
| 17 Q | Did you have any other conversations besides the one with Officer Medina and Mr. Follmer? | |
| 19 A | Not that I recall. | |
| 20 Q | Okay. It's my understanding that you -- you appealed the decision regarding your discipline to -- with respect to -- pursuant to the terms of the CBA, correct? | |
| 24 A | Correct. | |
| 25 Q | And that process has yet to be concluded, | |
| | Page 102 | Page 104 |
| 1 | correct? | 1 say just Google and you're everywhere with |
| 2 A | Correct. | 2 officer uses N-word. It's racist police |
| 3 Q | It's still in process? | 3 officer Aaron Petitt. And the Internet is |
| 4 A | Yes. | 4 forever. And everywhere I turn, every time I |
| 5 Q | Okay. What phase are you at now, if you know? | 5 try to look for something on myself, any |
| 6 A | I don't know. | 6 search engine, any search results shows |
| 7 Q | Okay. You filed an appeal, correct? | 7 something that I'm not and that I had nothing |
| 8 A | Yes. | 8 to do with. And I feel like that has done |
| 9 Q | Did you receive the results of that appeal? | 9 more damage to me than the six day suspension, |
| 10 A | Pardon? | 10 than any suspension ever could; that for the |
| 11 Q | Did you receive the results of your appeal? | 11 rest of my life that's me associated with the |
| 12 A | No. | 12 racism and the N-word, and that no matter how |
| 13 Q | Are you aware whether or not your appeal was -- was denied? | 13 hard I try, no matter where I go or try to go |
| 14 | | 14 that's just always there. |
| 15 A | I believe we're currently waiting on arbitration. | 15 Q Has anyone associated with the City of |
| 17 Q | Are you aware that it's a several step process before you get to arbitration? | 16 Cleveland ever accused you of using the |
| 19 A | I'm not familiar with the process. | 17 N-word? |
| 20 Q | Fair enough. Did you attend any hearings or meetings regarding the appellate process | 18 A No. |
| 22 | regarding the disciplinary proceedings? | 19 Q In fact, has any of the media articles that |
| 23 A | No. | 20 you refer to, they don't allege that you used |
| 24 | MR. KLEBANOW: Objection. Go ahead. | 21 the N-word, do they? |
| 25 | THE WITNESS: Sorry. | 22 A Before the other parts of the case were |
| | | 23 released, some of them did, yes. |
| | | 24 Q That's a mistaken statement, isn't it? |
| | | 25 A Yes. |

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| | Page 105 | Page 107 | |
| 1 Q | Have you ever sought a retraction or redaction 2 by those particular agencies for making that 3 mistake? | 1 Q | You don't know what the source of the 2 information for the -- actually the source of 3 the misinformation with respect to your 4 association with the N-word? |
| 4 A | No. | 5 A | No. |

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| 5 Q | Do you think that the City of Cleveland had 6 anything to do with those agencies making that 7 mistake? | 6 Q | So your concern is your association -- 7 improper association with the N-word; is 8 that -- is that a fair characterization? |
| 8 A | Yes. | 9 A | It's a partial characterization, yes. |
| 9 Q | What do you think the City did that caused 10 them to make that mistake? | 10 Q | Well, I haven't heard anything else besides 11 issues you believe you had to deal with as a 12 result of news outlets mistakenly associating 13 you with the N-word. Is there anything else 14 that I'm missing? |
| 11 A | Well, one specific incident would be when I 12 left the hearing with Officer Follmer present, 13 and media outlets had already had the 14 information of exactly what happened in the 15 hearing, and it was only myself, the union 16 members and other members of the City inside 17 the hearing and news media outlets were 18 already calling the president of CPPA, and I 19 had been in company with my representation 20 since the hearing, in a matter of three to 21 five minutes since the hearing concluded. | 15 A | In regard to what? I'm sorry. |
| 22 Q | Okay. So there is -- do you know where the 23 source of that information came from that 24 these -- well, let's start with this: Do you 25 know who made those phone calls? | 16 Q | In regards to how you feel that, you know, 17 your either reputation or your future job 18 opportunities have been affected? |
| | | 19 A | It's -- it's hard to quantify or describe how 20 people looked at you -- how people looked at 21 me differently at work. It's hard to -- it's 22 hard to give a description or an attribute to 23 how people -- certain people, especially other 24 officers, other maybe African American or 25 officers of other race simply see that an |
| | Page 106 | Page 108 | |
| 1 A | I do not. | 1 | officer was charged with disparaging or 2 demeaning or various other D words all regard 3 -- all relating to race. |
| 2 Q | Do you know what was said on those phone 3 calls? | 4 Q | Okay. |
| 4 A | I do not. | 5 A | And you walk down the halls and officers that 6 used to say hello to you, ask you how you were 7 just don't anymore. They just don't make eye 8 contact. That people you've known for years 9 just all of a sudden one day decide that 10 nothing more than a nod instead of a 11 conversation. It's not -- it's not something 12 to -- I don't know how to properly quantify I 13 guess. |
| 5 Q | Is there anything else besides these phone 6 calls from people who you don't know who made 7 the calls, you weren't a party to, that you 8 believe that the City of Cleveland had 9 anything to do with the mistaken allegation 10 and news publications that associated you with 11 the N-word? | 14 Q | Have -- as far as who are these officers 15 you're claiming that treat you differently? |
| 12 A | No. | 16 A | People around the city. People around the 17 district. |
| 13 Q | Do you know which news publications made those 14 false statements? | 18 Q | Who? |
| 15 A | I don't recall off the top of my head. | 19 A | I don't know names directly. |
| 16 Q | Do you have copies of any of those false 17 statements or allegations? | 20 Q | So you don't know the names of any of these 21 people that you claim are now treating you 22 differently after these allegations of the 23 disciplinary process surfaced? |
| 18 A | No. | 24 A | I wouldn't argue so much that I'm receiving 25 poor treatment or anything like that from |
| 19 Q | Do you know what websites they were from? | | |
| 20 A | Not directly off the top of my head, no. | | |
| 21 Q | Are you aware of any of those news 22 publications who you don't know the identity 23 of, whether or not they ever filed a 24 retraction? | | |
| 25 A | I don't know. | | |

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| | Page 109 | Page 111 | |
| 1 Q | them, just it feels different to me being 2 around them. 3 Q Who? Who makes you feel that way? 4 A After the case, everyone. 5 Q Every member of the Cleveland Division of 6 Police makes you feel that way? 7 A To me it felt different walking around the 8 city and walking around my own police 9 department. 10 Q Has there been any overt acts by specific 11 individuals that you believe support your 12 claim that you were treated differently after 13 this? 14 A No. 15 Q Okay. Isn't it possible that they read and 16 know the contents of your text message and 17 disagree with you as to whether or not that 18 term was disparaging or demeaning? 19 MR. KLEBANOW: Objection. Go ahead. 20 Q Isn't that a possible reason why if these 21 people are treating you differently? 22 A It's possible. 23 Q That they don't agree with your -- the context 24 and the use of the term haji, right? 25 A It's possible. | 1 Q | perceived being treated differently is in 2 relation to your term -- use of the term -- 3 I'm sorry, use of the phrase never a problem 4 to tune up some haji haha versus the N-word? 5 A I'm sorry. Can you repeat that one more time? 6 Q Sure. My understanding from your testimony 7 that you gave is that you feel like your 8 family and you and your friends are having to 9 defend you because people think that you used 10 the N-word; is that fair? 11 A That's part of it, yes. 12 Q Is there -- has there been any conduct or 13 conversations that you're aware of amongst 14 yourself, your friends or your family where 15 they have to defend your use of the phrase 16 never a problem to tune up some haji haha? 17 Has that ever come up? 18 A I don't know what conversations they've had. 19 Q Well, you said that they've had to defend you, 20 or people associated you with the N-word. 21 Have they ever done that with respect -- made 22 that association with respect to the -- to 23 your text message or the term haji? 24 A They've had -- they've had to defend me for 25 what everyone perceived as racist because |
| 1 Q | And it's also possible that they have a 2 problem with a Cleveland police officer 3 indicating that he doesn't have any 4 reservations about engaging in physical 5 violence with a citizen? 6 MR. KLEBANOW: Objection. Go ahead. 7 Q Right? 8 A It's possible. 9 Q And you have no idea as to whether or not they 10 are treating -- these specific people you 11 can't identify are treating you differently, 12 right? 13 A Correct. 14 Q And you don't know why perhaps, right? 15 A Because of this. 16 Q Isn't it possible they think that your use of 17 the term haji was disrespectful to the people 18 that have actually made the hajj? 19 MR. KLEBANOW: Objection. Go ahead. 20 A I don't know what they are thinking. 21 Q Okay. But that's a possible rationale; is it 22 not? 23 A Anything is possible. 24 Q Okay. How about anything else? I think we -- 25 what I -- do you think that any of your | Page 110 | Page 112 |

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| 1 Q | own uncle talk to your father about the belief 2 that the term haji implicated that you were a 3 racist? 4 A I don't know the details. 5 Q Well, you're saying he had to defend you so 6 please tell me what your father expressed to 7 you as to having to defend your use of the 8 term haji or the phrase never a bother to tune 9 up some haji haha. 10 A I just told you. 11 Q What, that he had to defend your use of the 12 term? 13 A That he had to defend me being called a 14 racist. 15 Q So your uncle called you a racist for using 16 the term haji? 17 A I don't know. 18 Q Well, what did your father tell you that your 19 uncle said that he had to defend you? 20 A That my uncle believed I was a racist because 21 of what he saw on TV, and that my dad had to 22 defend him -- or defend me. 23 Q What did he see on TV, the term that you used 24 haji or your association with the N-word? 25 A I don't know. | 1 A Fairview Park. I'm sorry, I was waiting until 2 you were finished. 3 Q I'm sorry. She takes it all down. I don't 4 have to write it. 5 How about with respect to your uncle 6 Carl Petitt, what is his address? 7 A I don't know. 8 Q Do you know where he lives? I mean city. 9 A I think he lives in Cleveland still. 10 Q Was either your father or your uncle a member 11 of the Cleveland Division of Police? 12 A No. 13 Q Do you have any other relatives that were 14 members of the Division of Police? 15 A No. 16 Q Do you have any relatives that were in with 17 the fire department? 18 A Yes. 19 Q Who? 20 A My brother. 21 Q Anyone else? 22 A I'm sorry, did you -- I apologize. Did you 23 mean Cleveland Fire or just a fireman? 24 Q I think we're fixing that. Where did your 25 brother work? |
| | Page 114 | Page 116 |
| 1 Q | All right. So as you sit here today has your 2 father or anyone else had to ever defend you 3 or your reputation based on your use of the 4 phrase in your text message or the term haji? 5 A I don't know. 6 Q So the answer to my question would be you have 7 no knowledge, evidence or recollection of 8 anyone attacking your reputation for your use 9 of the term haji or the text message we've 10 been discussing; is that true? 11 A I don't know. 12 Q No, is that true or not? 13 A That I don't know. 14 Q Do you have any knowledge of anyone ever 15 making those allegations against you, that 16 you're a racist or demeaning your reputation 17 based on the term haji or your text message? 18 A No. 19 Q What is your father's name? 20 A Alan Petitt. 21 Q Is he still with us? 22 A He is. 23 Q And what's his address? 24 A 19656 Henry Road. 25 Q Where is that, Cleveland? | 1 A Rocky River. 2 Q That's fine. Are you -- are you aware of you 3 not getting any -- strike that. 4 Are you aware of you not being hired 5 for any position with respect to the 6 discipline -- as a result of the discipline 7 you received in this case? 8 A Hired, no. Positions within the department, 9 yes. 10 Q What positions are you talking about? 11 A The availability for the NICE Unit. I was 12 informed that I was not able to go because I 13 had active discipline. 14 Q And that's a standard thing, correct? 15 A Correct. 16 Q Anyone that has disciplinary in the last two 17 years is not going to be selected for a 18 specialized unit, correct? 19 A Correct. 20 Q What's the NICE Unit? 21 A Neighborhood Impact Community Engagement. 22 Q Okay. Is that different from Community 23 Control? 24 A Yes. 25 Q All right. Any other positions or employment |

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| | Page 117 | Page 119 |
| 1 that you claim you didn't receive as a result 2 of the disciplinary process we're here about 3 today? 4 A No. 5 Q Would the NICE Unit have resulted in any 6 change in pay? 7 A Base pay, no. 8 Q By your answer do you allege that there is any 9 other degree of compensation that would have 10 changed had you been appointed to the NICE 11 Unit? 12 A Overtime and experience and education 13 opportunities. 14 Q Overtime it's my understanding is never 15 guaranteed to a member of the Division of 16 Police, correct? 17 A Rarely is it guaranteed. 18 Q I'm sorry? 19 A It's rarely guaranteed. 20 Q There is a provision where you're guaranteed 21 to receive overtime in the Division of Police? 22 A Some units have set scheduled overtime. Not 23 many. But there is no overall guarantee for 24 any one person. 25 Q But don't you need to apply for and receive | 1 of life issues and go to areas that may be 2 current hot spots with violence or drug 3 activity and try to deal with community issues 4 and enforcement from there. 5 Q Okay. But just so I'm clear, that wouldn't 6 have resulted in any difference in base pay or 7 overtime, would it? 8 A No. 9 Q Are there any other monetary damages you're 10 claiming as a result of the discipline that 11 was imposed? 12 A No. 13 Q When you -- who presided over your 14 disciplinary hearing; do you know? 15 A I'd have to review the transcript. 16 Q Go ahead, take a look. 17 A Deputy Chief Wayne Drummond. 18 Q Okay. And who was it that imposed your six 19 day suspension as a result of the three 20 specifications that you were found guilty of? 21 A I believe it's the Chief of Police that makes 22 the ultimate -- let me check. 23 Q Go ahead and check the letter. 24 A I'm sorry. 25 Q That's fine. | |
| | Page 118 | Page 120 |
| 1 approval to work overtime? 2 A No. 3 Q You don't have to put in for overtime? 4 A It's -- for the set ones there is. It's not 5 approval, it's usually a sign-off, just a 6 roster. You don't have to receive prior 7 permission. 8 Q What -- in your belief what are those units or 9 positions? 10 A Sometimes traffic and the Downtown Services 11 Unit, including my unit. 12 Q But not the NICE Unit, correct? 13 A Correct. 14 Q All right. So had you transferred to the NICE 15 Unit you would have essentially been forgoing 16 the overtime you would have received under 17 your current unit, correct? 18 A No. 19 Q You can do both? 20 A You can sign up for other units, yes. 21 Q What would you be doing for the NICE Unit had 22 you been selected? 23 A The description that was given out by the 24 Chief, they position themselves around the 25 City for high crime areas and focus on quality | 1 A Chief Calvin Williams. 2 Q Okay. As a result of this disciplinary 3 process and the imposition of your suspension 4 have you ever suffered from any mental 5 conditions that you claim are causally 6 related? 7 A No. 8 Q So there is no sort of mental issues or 9 treatment that you've been seen by any medical 10 professional with regard to the allegations in 11 your complaint; is that true? 12 A Correct. 13 Q Okay. Do you believe that the City of 14 Cleveland's policies and orders under which 15 you were found guilty of should be amended or 16 changed in any manner? 17 A Yes. 18 Q In what way? 19 A To be more specific. 20 Q In what way? 21 A For them to state and identify words that they 22 feel are inappropriate. 23 Q Okay. Anything else? 24 A Not at the moment, no. 25 Q What words would you include on that list? | |

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| | Page 121 | Page 123 |
| 1 A | If the City deems that a word is appropriate 2 they should add that. If the City of 3 Cleveland believes that the word haji is 4 inappropriate and offensive then I believe 5 there should be notice that that word is 6 inappropriate and offensive, or believed to 7 be. | 1 A You're asking me a two-part hypothetical 2 what-if question. I don't feel comfortable 3 answering what ifs with what ifs. 4 Q If a word doesn't appear on the list is it 5 your position that a police officer should not 6 be disciplined for using it under any -- under 7 any circumstances? 8 A But there is no list, correct? 9 Q Right. But I'm saying if we were to create a 10 list that you're talking about creating and a 11 word comes up through an investigation that -- 12 that people would -- that would be ambiguous 13 or people might consider to be demeaning or 14 derogatory or -- is it your position that that 15 word, because it's not on the list there 16 should be no discipline imposed? 17 A It would be my position that it should be 18 examined, it should be discussed and it should 19 be addressed from there. 20 Q But my question is if the City makes a 21 determination that they find that that word 22 that was used, whatever it is that doesn't 23 appear on this list you're talking about, was 24 offensive or demeaning or derogatory, is it 25 your position that the City still should not |
| | Page 122 | Page 124 |
| 1 | offensive then I believe it should be. 2 Q Well, are you saying that haji is per se in 3 all circumstances an offensive word? 4 MR. KLEBANOW: Objection. 5 A What do you mean per se? 6 Q Well, what is the criteria by which you would 7 put a word on this list that you're talking 8 about? 9 A That would be up to the City of Cleveland to 10 decide. 11 Q What if there is a word that doesn't appear on 12 that list, because as you know word meanings 13 and vocabulary is changing all the time, 14 correct? 15 A Correct. 16 Q So what if a word comes up that's not on the 17 list, what should the City do in that 18 circumstance? 19 A What if it doesn't come up? 20 Q No, I'm saying what if a word like haji is not 21 on the list. 22 A Uh-huh. 23 Q Does that mean that you believe that under no 24 circumstances should a person be disciplined 25 for the use of a word that's not on that list? | 1 be able to discipline its officers for that 2 use of that word? 3 A It would be my position that there needs to be 4 guidelines. If there -- if in this what-if 5 situation that if I'm making a list that if 6 exists and if someone was disciplined for if 7 using it because it wasn't on the if list, it 8 would be my position that if that word came up 9 then there should be some sort of sit down, 10 some sort of saying hey, this is a new word 11 that surfaced in our language, because that 12 happens all time. It should be addressed. 13 And from that point forward it should be known 14 that this is not acceptable. 15 Q So it's kind of like the dog's one bite rule. 16 You should be able to use a word that's 17 considered offensive at least one time because 18 it's not on the list? 19 MR. KLEBANOW: Objection. 20 Q Right? 21 A I'm not sure how this relates to a dog bite. 22 I'm not -- 23 Q The one bite rule? 24 A I honestly have never heard that phrase. 25 Q All right. So in the event that a word comes |

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| | Page 125 | Page 127 |
| 1 | up that is deemed by the City to be offensive 2 or subject to discipline but it's not on the 3 list, is it your position the City shouldn't 4 be able to discipline the person for that? 5 I'm just -- 6 A My position is exactly as I just stated. 7 Q Which is what with respect to that question? 8 THE WITNESS: Can you reread that 9 please, ma'am? 10 Q You sit down -- I'll tell you what. 11 A Okay. 12 Q You sit down, you have a discussion about it 13 but at the end of the day if the City still 14 feels that the context in which the term was 15 used was offensive, is it your position that 16 they still shouldn't be able to discipline 17 their employee -- their officer for it? 18 A Yes. 19 Q So then if a word doesn't appear on this list 20 and it's determined that it's -- it was used, 21 it was an offensive word that was used in a 22 police action, it's your position that you 23 cannot discipline someone for that? 24 A So this is the if list, if it's a police 25 action, if it's not a word on the if list that | 1 Well, with respect to the discipline 2 and the process and the investigation with 3 respect to your text message and the other 4 charges, didn't the City do what you say they 5 should have done except for with respect to 6 imposing discipline on you? I mean, they 7 investigated what the word meant, right? 8 A Yes. 9 Q They heard your side of the story and 10 collected, you know, the information that you 11 believe supported your actions and decisions, 12 right? 13 A Yes. 14 Q They presented it to -- both sides of the 15 story to at that point the deputy chief, 16 right? 17 A Correct. 18 Q And it was left for him to make a 19 determination, or I should say a 20 recommendation to the Chief, correct? 21 A Correct. 22 Q And you -- so there is nothing -- there is 23 nothing about the way it was handled, you just 24 have an issue with the fact that you were 25 disciplined for it, right? |
| | Page 126 | Page 128 |
| 1 | I've created? 2 Q It's not an if list, it's a list, but yeah. 3 A But it's a list that doesn't exist so it's an 4 if list. 5 Q No. If we create your list that you say, the 6 word is not on there -- 7 A There is a lot of theoretical lists floating 8 around there. I'm sorry. 9 Q If the word -- that's fine. If the word is 10 not on there, it's your position that you 11 shouldn't be able to discipline someone for 12 using it? 13 A It's my position that there should be 14 guidelines. It's my position that 15 administrators in the City and anyone using 16 that word or someone says I'm offended by it, 17 there should be a conversation about it and it 18 should be addressed. 19 Q But my point is -- 20 A How is it addressed -- 21 Q My point is the word is not on the list. 22 A I don't -- I'm sorry but I don't know your 23 point. I don't know the list and I don't 24 know -- 25 Q It's fine. It's fine. All right. | 1 A No. 2 Q All right. What about the process do you 3 think should have been different? 4 A You previously -- you previously asked me and 5 I said that there should be some sort of 6 guideline set forth if that word is found to 7 be offensive, if they believed it to be 8 offensive. A standard should be set forth 9 from that period on. 10 Q Well, all right. Have you ever been a party 11 to a lawsuit in the past? 12 A Yes. 13 Q How many times? 14 A For any lawsuit ever? 15 Q Uh-huh. 16 A Three or four maybe. 17 Q Okay. And outside of your employment with the 18 City of Cleveland have you been a party to a 19 lawsuit? 20 A Yes. 21 Q How many times? 22 A One. 23 Q What was that in regards to? 24 A Traffic accident. 25 Q Anything else that you can recall? Any |

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| | Page 129 | Page 131 |
| 1 | lawsuits you filed? | 1 Q And then the final one? |
| 2 A | When I was in high school. | 2 A "American Airlines delivering a special |
| 3 Q | Uh-huh. What was that lawsuit about? | 3 message." |
| 4 A | It was a freedom of speech case. | 4 Q Okay. Okay. And these are posters that you |
| 5 Q | Okay. What did it pertain to? | 5 posted around your school indicating what? |
| 6 A | Against hanging pictures, posters on my locker | 6 Why did you do it? |
| 7 | at school. | 7 A This was immediately following 9/11. These |
| 8 Q | What was the content of the posters? | 8 were pictures from the Internet and these were |
| 9 A | They were U.S. military planes flying over | 9 slogans taken off there. And the front one |
| 10 | Afghanistan. | 10 being a play off the Robin Williams good |
| 11 Q | What else was going on? | 11 morning Viet Nam. The following posters, the |
| 12 | MR. KLEBANOW: Objection. | 12 following were all from military members that |
| 13 A | I was suspended for -- I don't remember the | 13 I saw on TV when I was a sophomore in high |
| 14 | exact verbiage but I was suspended with a | 14 school. |
| 15 | recommendation for expulsion for hanging | 15 Q Okay. Is there any limitation on where or how |
| 16 | posters that could be considered offensive. | 16 Afghans should be bombed in any of those |
| 17 Q | Okay. They were flying over Afghanistan. | 17 photographs? |
| 18 | What were the planes doing? | 18 A That would be up to the commanding general. |
| 19 A | They were dropping bombs. | 19 Q Well, I'm -- does your writing indicate |
| 20 | MR. PIKE: Okay. Let's mark | 20 anything about it or just that the entire |
| 21 | this. | 21 Afghan should be bombed? |
| 22 | (Defendant's <u>Exhibit G</u> | 22 MR. KLEBANOW: Objection. Go ahead. |
| 23 | marked for identification.) | 23 A I was a sophomore in high school so I wasn't a |
| 24 Q | Take a look at what I've given you as Exhibit | 24 member of special operations command at the |
| 25 | B -- I mean G. I'm sorry. Five posters I've | 25 time so I didn't have any deployable knowledge |
| | Page 130 | Page 132 |
| 1 | attached here. Are these posters that you | 1 on how the Air Force imposed -- |
| 2 | were referring to? | 2 Q I'm asking what you mean by good morning |
| 3 A | Yes, they are. | 3 Afghan. The picture seems to indicate that |
| 4 Q | All right. And in each one of these five | 4 it's target bombing the country. |
| 5 | posters it depicts military planes over | 5 A I'm not sure what the bombers on Afghanistan |
| 6 | Afghanistan dropping bombs? | 6 after we started invasion were doing besides |
| 7 A | Yes. | 7 bombing. |
| 8 Q | What's the -- under the first page what's the | 8 (Jeffrey Follmer entered to conference room.) |
| 9 | language there that's written? | 9 Q All right. Is there any other reason you |
| 10 A | "Good morning Afgan." | 10 posted these photos? |
| 11 Q | Okay. And then the second one, what's written | 11 A To show support for my country after we were |
| 12 | there? | 12 attacked. |
| 13 A | "May God have mercy because we will not." | 13 Q Okay. That's the 9/11 attack, Twin Towers? |
| 14 Q | And the third one? | 14 A Yes, it was. |
| 15 A | "Nonstop flights soon to" -- I can't make out | 15 Q Was your sister injured in that attack? |
| 16 | the last word. | 16 A Yes, she was. |
| 17 Q | "Soon to be commenced"? | 17 Q What injuries did she suffer? |
| 18 A | I don't know. | 18 A Cuts to the face from glass, partial burns |
| 19 Q | All right. Fourth one? | 19 from the debris. Not -- that's all I really |
| 20 A | "It's a bird. It's superman. No. It's what | 20 recall. |
| 21 | dreams are made of" I think. "Dreams do come | 21 Q How about with respect to your brother who is |
| 22 | true." | 22 a firefighter, I'm sure it impacted him, the |
| 23 Q | Again, depicting bombs falling all over | 23 9/11 attack? |
| 24 | Afghanistan? | 24 A He volunteered to go up to Ground Zero to dig |
| 25 A | Yes. | 25 out remains and rubble. |

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| | Page 133 | Page 135 | |
| 1 Q | Right. I'm assuming it made you mad? | 1 Q | Have you ever used that term in respect to |
| 2 | MR. KLEBANOW: Objection. Go ahead. | 2 | text messages? |
| 3 A | It made me very mad. | 3 A | I don't know. |
| 4 Q | And in response to that you posted these type | 4 Q | Is it fair to say that haji is not the only |
| 5 | of photos? | 5 | ambiguous term you've used to refer to people |
| 6 A | To show support for my country, yes. | 6 | of other ethnic ethnicities? |
| 7 Q | Okay. Is it your belief that using the term | 7 A | Can you repeat that? I'm sorry. |
| 8 | haji is acceptable, to use that to refer to | 8 Q | Sure. Is it fair to say that haji is not the |
| 9 | all middle easterners? | 9 | only term you've used to refer to -- ambiguous |
| 10 A | It depends. | 10 | term that you've used to refer to other |
| 11 Q | Depends on what, context? | 11 | people -- people of other ethnicities? |
| 12 A | Depends on who you're saying it to, how you're | 12 A | No. |
| 13 | speaking to them. | 13 Q | Okay. Were you a party or involved in any way |
| 14 Q | Okay. Well, what circumstances would it be | 14 | with respect to a lawsuit to keep the terms of |
| 15 | appropriate or would it not be appropriate to | 15 | your text message out of the public eye? |
| 16 | use the term? | 16 A | Yes. |
| 17 A | At work. The same reason I don't use the | 17 Q | In what regard? |
| 18 | terms bro or dude or guy when I'm speaking to | 18 A | Myself and on behalf of the Union initially |
| 19 | somebody. | 19 | filed an injunction to stop it from coming |
| 20 Q | How about the term nukka, n-u-k-k-a; do you | 20 | out. |
| 21 | use that term? | 21 Q | You didn't want the particulars of the text |
| 22 A | Joking around with friends I know I have. | 22 | message that you had used to go public, |
| 23 Q | What does that term mean? | 23 | correct? |
| 24 A | We -- a lot of times like nukka or ninja. | 24 A | Correct. |
| 25 Q | Okay. Is there another -- is there another | 25 Q | You filed -- were part of a federal lawsuit |
| | Page 134 | Page 136 | |
| 1 | connotation of the word nukka? Is it slang | 1 | seeking to prevent that from occurring, |
| 2 | for anything? | 2 | correct? |
| 3 A | Not that I've used it in. | 3 A | Correct. |
| 4 Q | You're not aware of any alternate meanings of | 4 Q | Okay. And just so I'm clear, you were |
| 5 | the term nukka? | 5 | successful in that, right? |
| 6 A | Not that I've used it in, no. | 6 A | No. |
| 7 Q | How about the term homo; have you ever been | 7 Q | Okay. Well, if the term is so appropriate to |
| 8 | involved in a conversation involving the term | 8 | use why would you go to great lengths as to |
| 9 | homo? | 9 | file a federal lawsuit to prevent its |
| 10 A | Yes. | 10 | disclosure to the public? |
| 11 Q | Have you used the term yourself? | 11 | MR. KLEBANOW: Objection. Go ahead. |
| 12 A | I'm sure I have. | 12 A | Because everyone has a different opinion and |
| 13 Q | Do you think that's an appropriate term to use | 13 | the media can turn anything they want to into |
| 14 | when referring to people? | 14 | anything. |
| 15 A | At work, no. | 15 Q | Right. Everybody has a different opinion as |
| 16 Q | But you agree that you've used that term, | 16 | to the term haji and the way that you used it |
| 17 | right? | 17 | in that text message, right? |
| 18 A | I have. | 18 A | Correct. |
| 19 Q | How about the term fag, have you used that | 19 Q | Some people would find it very offensive, |
| 20 | term? | 20 | correct? |
| 21 A | I'm sure I have before. | 21 A | It's possible. |
| 22 Q | Is there any ambiguity to that term? | 22 Q | All right. And isn't it really more important |
| 23 A | No. | 23 | when you're creating a policy for which police |
| 24 Q | Have you ever used that term while on duty? | 24 | officers are to follow that you take into |
| 25 A | I don't believe so. | 25 | account everyone's ethnic background and |

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| | Page 137 | Page 139 |
| 1 | opinions on a particular word or phrase? | 1 Q It's about as far away from the City of |
| 2 A | Yes. | 2 Cleveland as you could possibly be, right? |
| 3 Q | So if some person or persons found your | 3 A Yes. |
| 4 | terminology, your text message or the term | 4 Q So the terms and phrases that are -- or |
| 5 | haji offensive you would agree that -- that | 5 customs that are used in the middle east are |
| 6 | that word should not be used by a police | 6 far different from those that are present here |
| 7 | officer, correct? | 7 in the City of Cleveland, correct? |
| 8 A | Yes. | 8 A No. |
| 9 Q | Okay. Even though you may have been using it | 9 Q No? |
| 10 | innocently it's what the public or someone | 10 A No. |
| 11 | else would perceive the meaning of that word | 11 Q Okay. But you can appreciate that the word's |
| 12 | that's important; is it not? | 12 usage and context and meaning can mean two |
| 13 A | Yes. | 13 different things in two different parts of the |
| 14 Q | As the City of Cleveland or the Cleveland | 14 world, right? |
| 15 | Division of Police, it has a vested interest | 15 A Yes. |
| 16 | in holding its officers to the highest | 16 Q And there is certain gestures and actions that |
| 17 | standards, correct? | 17 are commonplace here in the United States that |
| 18 A | Correct. | 18 would probably get you, you know, into a fight |
| 19 Q | Because if you don't do that they lose faith | 19 in other parts of the world, right? |
| 20 | in the police, correct? | 20 A Absolutely. |
| 21 A | Correct. | 21 Q And that was part of your military training, |
| 22 Q | So with respect to the City's determination as | 22 correct? |
| 23 | to whether or not a word or a phrase comports | 23 A Some of it, yes. |
| 24 | with your personal belief as to the meaning of | 24 Q So what's acceptable in one part of the world |
| 25 | that word, that's really not relevant to a | 25 is not necessarily acceptable in civilian life |
| | Page 138 | Page 140 |
| 1 | disciplinary process, correct? | 1 here in the City of Cleveland, right? |
| 2 | MR. KLEBANOW: Objection. Go ahead. | 2 A Sometimes, yes. |
| 3 A | I would disagree with that. | 3 Q All right. You're not disputing that, right? |
| 4 Q | Okay. And can you give me any documents or | 4 A No. |
| 5 | notices or any paperwork where the U.S. | 5 MR. PIKE: All right. We can |
| 6 | military, as you claim, instructed you in the | 6 take a break if you want. |
| 7 | use of the term haji? | 7 MR. KLEBANOW: All right. That's |
| 8 A | Not at the moment, no. | 8 fine. |
| 9 Q | Can you name any person or commander who told | 9 MR. PIKE: I don't want to hold |
| 10 | you to use those terms -- that term? | 10 him here. |
| 11 A | All of those people are long since gone if I | 11 VIDEO TECHNICIAN: We're off the record |
| 12 | could remember the names. | 12 at 12:48. |
| 13 Q | You don't know any of those people who I could | 13 (Short recess.) |
| 14 | ask about this, do you? | 14 VIDEO TECHNICIAN: We're back on the |
| 15 A | I could try to get information. No. | 15 record at 12:55. |
| 16 Q | Well, I'm asking as you sit here do you have | 16 MR. PIKE: Sir, I looked over my |
| 17 | any knowledge as to who the person or persons | 17 notes. I think I'm done today. I appreciate |
| 18 | were within the U.S. military that told you it | 18 your time and honesty. |
| 19 | was okay to use those terms? | 19 MR. KLEBANOW: And we'll read. |
| 20 A | Not at the moment, no. | 20 VIDEO TECHNICIAN: We're off the record |
| 21 Q | You would agree that the culture in society in | 21 at 12:55. |
| 22 | the middle eastern states is dramatically | 22 (Deposition concluded at 12:55 p.m.) |
| 23 | different than what it is here in Cleveland, | 23 (Signature not waived.) |
| 24 | Ohio, correct? | 24 - - - |
| 25 A | In an unimaginable and unfathomable way, yes. | 25 |

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| | Page 141 | Page 143 |
| 1 | SIGNATURE PAGE | 1 State of Ohio,) 2 County of Cuyahoga,) SS: CERTIFICATE |
| 3 | In Re: Aaron Petitt, et al., v. City of Cleveland | 3 I, Karen A. Toth, Notary Public in and for the |
| 4 | Case Number: 1:18-CV-01678-JG | 4 State of Ohio, duly commissioned and qualified, do |
| 5 | Deponent: Aaron Petitt | 5 hereby certify that the within named witness, |
| 6 | Date: Thursday, January 17, 2019 | 6 Aaron Petitt, was by me first duly sworn to |
| 7 | | 7 testify the truth, the whole truth, and nothing but |
| 8 | To the Reporter: | 8 the truth in the cause aforesaid; that the testimony |
| 9 | I have read the entire transcript of my | 9 then given by him was by me reduced to |
| 10 | Deposition taken in the captioned matter or the same | 10 stenotypewriter/computer in the presence of said witness, |
| 11 | has been read to me. I request that the following | 11 afterward transcribed, and that the foregoing is a |
| 12 | changes be entered upon the record for the reasons | 12 true and correct transcript of the testimony so |
| 13 | indicated. | 13 given by him as aforesaid. |
| 14 | I have signed my name to the Errata Sheet and the | 14 I do further certify that the testimony given |
| 15 | appropriate Certificate and authorize you to attach | 15 by the witness was video/audio recorded and that the |
| 16 | both to the original transcript. | 16 video recording hereto attached is a true and |
| 17 | | 17 correct visual and audio reproduction of the |
| 18 | | 18 testimony given by him. |
| 19 | | 19 I do further certify that this deposition was |
| 20 | Aaron Petitt | 20 taken at Burke Lakefront Airport, 1501 North |
| 21 | Subscribed and sworn to before me this | 21 Marginal Road, Cleveland, Ohio 44114, on Thursday, |
| 22 | day of , 2019. | 22 January 17, 2019, commencing at 9:54 a.m. and was |
| 23 | | 23 completed without adjournment. |
| 24 | Notary Public | 24 |
| 25 | My commission expires: . | 25 |
| | Page 142 | Page 144 |
| 1 | I have read the foregoing transcript from page 1 | 1 I do further certify that I am not a relative, |
| 2 | through page 140 and note the following corrections: | 2 counsel, or attorney of either party, or otherwise |
| 3 | PAGE-LINE REQUESTED CHANGE REASON FOR CHANGE | 3 interested in the event of this action. |
| 4 | | 4 IN WITNESS WHEREOF, I have hereunto set my |
| 5 | | 5 hand and affixed my seal of office at Cleveland, |
| 6 | | 6 Ohio on this 21st day of January, 2019. |
| 7 | | 7 |
| 8 | | 8 Karen A. Toth, Notary Public in |
| 9 | | 9 and for the State of Ohio. My Commission expires May 6, 2023. |
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| 24 | | 24 |
| 25 | Aaron Petitt | 25 |

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